

## ORDINANCE 2015 - 012

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA, AMENDING THE GADSDEN COUNTY LAND DEVELOPMENT CODE, AMENDING CHAPTER 1, ADMINISTRATION AND ENFORCEMENT; CHAPTER 6, SUBDIVISION OF LAND; AND CHAPTER 7, DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, AND DEVELOPMENT AGREEMENTS; PROVIDING FOR REPEAL, SEVERABILITY, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.

*WHEREAS*, Chapter 125, Florida Statutes, establishes the right and power of counties to provide for the health, welfare and safety of existing and future residents of the county by enacting and enforcing regulations concerning the use of property necessary for the protection for the public; and

*WHEREAS*, the Board of County Commissioners of Gadsden County has adopted the Gadsden County Land Development Code, as required pursuant to §163.3202, Florida Statutes; and

*WHEREAS*, The Gadsden County Planning Commission, acting as the local planning agency, reviewed this amendment and made a recommendation to the Board of County Commissioners; and

*WHEREAS*, duly noticed public hearings were conducted on such proposed amendment on September 17, 2015 by the Gadsden County Planning Commission and on October 20, 2015 by the Board of County Commissioners.

*WHEREAS*, words with underline type shall constitute addition and ~~striketrough~~ shall constitute deletions to the original text from the language existing prior to adoption of this Ordinance.

Now therefore, be it ordained by the Board of County Commissioners of Gadsden County, Florida, that:

### **SECTION I: Approval and Adoption of Amendment.**

The amendment to the Gadsden County Code of Ordinances as attached hereto as Exhibit "A" is hereby adopted and approved.

### **SECTION II: Repeal**

Those parts of Chapters 1, 6 and 7 of the Gadsden County Land Development Code, as amended by this ordinance in conflict herewith are hereby repealed and shall have no further effect whatsoever.

### **SECTION III: Severability**

If any phrase or portion of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency or other body with appropriate

jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

**SECTION IV: Inclusion in the Land Development Code**

This Ordinance shall be codified in the Gadsden County Land Development Code as set forth in Exhibit "A."

**SECTION V: Modification**

It is the intent of the Board of County Commissioners that the provisions of this Ordinance, including the amendment attached hereto as Exhibit "A," may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the Ordinance adopted by the Board and filed by the Clerk pursuant to Section 6.

**Section VI: Effective Date**

This Ordinance shall become effective as provided by law.

The above and foregoing Ordinance was read and approved at a duly convened public hearing at a regular meeting of the Board of County Commissioners of Gadsden County, Florida, this 20th day of October, 2015.



BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA

By:

Brenda Holt, Chairperson

Nicholas Thomas  
Clerk of the Circuit Court

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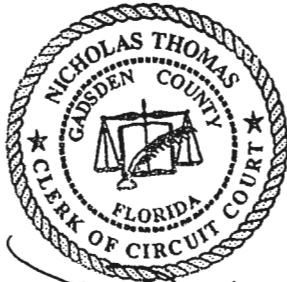
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BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA

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CHAPTER 1

ADMINISTRATION AND ENFORCEMENT

SECTION 1000. GENERAL.

**Subsection 1001. Title.** This Code shall be known as and shall be referred to as the Gadsden County Land Development Code. This Land Development Code in subsequent sections is referred to as "Code" or "LDC".

**Subsection 1002. Purpose and Intent.** This Code contains standards intended to protect the health, safety and welfare of the citizens and visitors of Gadsden County, Florida. The purpose of this Code is to implement the Gadsden County Comprehensive Plan, specifically the goals, objectives and policies contained therein.

**Subsection 1003. Authority.** The Gadsden County Board of County Commissioners is authorized to adopt and amend this Code in accordance with Article VIII, Section 1, Florida Constitution, the Community Planning Act (§163.3164 et seq., Florida Statutes), Chapter 125, Florida Statutes, and all other relevant laws of the state of Florida.

**Subsection 1004. Effective Date.** The effective date of the Land Development Code is July 2, 1996. All amendments to the Land Development Code are effective as provided by law.

**Subsection 1005. Legal Status.** In case of conflict between this Code or any part thereof, and the whole or part of any existing ordinances of Gadsden County, the most restrictive in each case shall apply.

**Subsection 1006. Validity.** If any provision of this Code is held invalid or unconstitutional by any duly authorized court in the State of Florida, such a decision shall not affect the validity of any other provision of this ordinance.

**Subsection 1007. Changes and Amendments.** Any of the regulations or provisions of this Code may be changed or amended, and shall be effective when adopted by ordinance and submitted to the Department of State, in accordance with Florida law.

**Subsection 1008. Applicability.** The provisions of this Code shall apply to any development of land within the unincorporated limits of Gadsden County, unless expressly exempted by a specific section of this Code. This includes the subdivision, platting or recording of parcels and/or lots.

**Subsection 1009. Relationship to the Comprehensive Plan.** It is the intent that this Code implement and be consistent with the Comprehensive Plan as required by Florida Statutes. Development approved by or undertaken within Gadsden County

shall be consistent with the Comprehensive Plan. Any amendments to this Code shall be consistent with the Comprehensive Plan.

**SECTION 1100. ADMINISTRATIVE RESPONSIBILITIES.**

The legally constituted bodies and agencies of Gadsden County, Florida or persons enumerated below shall have the duties and powers as set forth in this section of the Gadsden County Land Development Code.

**Subsection 1101. Board of County Commissioners.** All powers of Gadsden County shall be vested in the Board of County Commissioners except as otherwise provided in the Comprehensive Plan, the LDC, or by law.

A. Duties and Responsibilities. Except as otherwise provided in the Comprehensive Plan, the LDC, or by law, the Board of County Commissioners shall have the following duties and responsibilities as it relates to land development activities:

1. To adopt and subsequently amend the Comprehensive Plan, after any such amendments are reviewed and recommended by the Planning Commission.
2. To initially adopt and subsequently amend the provisions and requirements of this Code as may be considered necessary from time to time, after such amendments are reviewed and recommended by the Planning Commission.
3. To establish by ordinance the qualifications, terms of office, and duties and responsibilities of the Planning Commission.
4. To have final authority for approval of subdivisions and subdivision plats pursuant to Chapter 177.071, F.S.
5. To have authority to issue certain development orders.
6. To make determinations relative to Developments of Regional Impacts as specified in Chapter 380, Florida Statutes.
7. To have authority to enter into development agreements pursuant to Sections 163.3220 – 163.3243, Florida Statutes.
8. To hear and decide appeals as specified in this Code.
9. To have final authority over special exceptions, variances, and other similar requests.
10. To have final authority for vacation, abandonment, or acceptance of

dedicated public ways including rights-of-way and easements.

11. To perform any other deliberations or actions not otherwise assigned to any other board, commission or staff, which may be necessary or desirable for the implementation of this Code.

**Subsection 1102. Planning Commission.** The Planning Commission shall be the Local Planning Agency of Gadsden County as provided for in Chapter 163, Florida Statutes.

- A. Duties and Responsibilities. The Planning Commission shall have the following duties and responsibilities.
  1. To make recommendations to the Board of County Commissioners regarding amendments to the Comprehensive Plan and Future Land Use Map.
  2. To monitor the effectiveness and status of the Comprehensive Plan and recommend to the governing body such changes in the Comprehensive Plan as may from time to time be required, including preparation of periodic reports required by §163.3191, Florida Statutes.
  3. To make recommendations to the Board of County Commissioners regarding amendments to the Land Development Code.
  4. To make recommendations to the Board of County Commissioners regarding proposed development agreements, Developments of Regional Impacts, or the equivalent.
  5. To make recommendations to the Board of County Commissioners regarding the merits of a special exception, variance, development or other similar requests as specified in this Code.
  6. To make recommendations to County staff on matters affecting land development within the unincorporated portions of Gadsden County, which may include certain development order requests.

**Subsection 1103. Development Review Committee (DRC).** The Development Review Committee (DRC) has been established to review the proposed development set forth in this Code for compliance with this Code, as specified in this Code. The DRC shall be comprised of the following members or their authorized designee:

- A. Planning and Community Development Director;
- B. County Building Official, or his or her designee;
- C. Planning division staff as appointed by the Planning and Community Development Director;

- D. Director of Emergency Medical Services;
- E. Director of Public Works;
- F. County Engineer;
- E. Fire Marshall.

If it is deemed necessary by the Planning and Community Development Director, other officials may be asked to comment on development proposals, as applicable.

The Planning and Community Development Director, or their designee, may elect to distribute development plans for review and comment by members of the DRC in lieu of convening regularly scheduled meetings.

**Subsection 1104. County Administrator.** The powers and duties of the County Administrator shall include, but are not limited to those as described in Section 2-83 of the Gadsden County Code of Ordinances.

**Subsection 1105. Planning and Community Development Director.** The Planning and Community Development Director (Director), or their designee, in addition to other duties, shall receive and review all site plans and plats whose submission is required by this Code. The Director, or their designee, shall also be responsible for submitting and processing the Comprehensive Plan and all subsequent amendments. The Director is charged with the interpretation of the Land Development Code and other duties as assigned by the County Administrator. The Director is also the Planning Official and the designated Chairperson for the County Development Review Committee (DRC).

**Subsection 1106. County Engineer.** The duties of the County Engineer shall include, but not be limited to, responsibility for reviewing engineering specifications submitted to obtain a development order from the County, reviewing resource protection plans, transportation system plans in regards to engineering specifications, site plans, subdivision requirements as pertaining to engineering standards and such other matters that may relate to the functions and responsibilities of the County Engineer. The County Engineer may be a staff person or hired as a consultant.

## **SECTION 1200. ENFORCEMENT AND PENALTIES.**

**Subsection 1201. Purpose and Intent.** It is the intent of this section to provide certainty in procedure in regard to decisions and appeals to decisions made in the administration of this Code.

**Subsection 1202. Enforcement Responsibilities.** Administration responsibilities of this Code shall lie with the Planning Official of Gadsden County, or their designee. Responsibilities shall include, but are not limited to, decisions regarding:

- A. Development order for signs;

- B. Concurrency certificates;
- C. Development orders;
- D. Completeness reviews;
- E. Zoning/land use certifications for state agency permits;
- F. Any other matter as to which this Code does not specify any necessity of review and final action by the Gadsden County Board of County Commissioners or by a Board appointed by the County Commissioners.

**Subsection 1203. Recording.** No subdivision plat or plan of a subdivision of land located within the unincorporated portion of Gadsden County shall be admitted to the records of Gadsden County, or received or recorded by the Clerk of the Court, until such said subdivision plat or plan of a subdivision has received final approval as provided for in this Code and Florida law.

**Subsection 1204. Sale or Lease of Property Prohibited Prior to County Approval.** No owner, or agent of the owner of any parcel of land located in a proposed subdivision shall transfer, sell, or lease any parcel before a subdivision has been properly approved by and recorded in Gadsden County.

**Subsection 1205. Enforcement Procedures.** This Code shall be enforced by Gadsden County Code Enforcement and/or a special magistrate pursuant to and in accordance with Chapter 2, Article V, Division 4 of the County Code of Ordinances, and Florida law.

**Subsection 1206. Penalties or Remedies.** Penalties and remedies for violations of the requirements of this Code shall be those pursuant to and in accordance with the County Code of Ordinances and Florida law.

**SECTION 1300. DECISION MAKING PROCEDURES.** It is the intent of the Board of County Commissioners that any person affected by actions taken as a result of this Code shall be afforded due process of law. Public hearing and notice requirements are set forth in this section.

**Subsection 1301. Legislative Actions.** The following actions by the Board of County Commissioners shall be legislative:

- A. Any Comprehensive Plan amendment, including all amendments to the Future Land Use Map
- B. All amendments to the text of this Code.
- C. Vacation of rights-of-way, easements, and other property interests.

**Subsection 1302. Legislative Hearing Procedures.** The following procedures shall apply to legislative actions:

- A. A request for legislative action shall be made by application on a form provided by Gadsden County no less than thirty (30) days prior to the first public hearing that will be scheduled for the request.
- B. Within seven (7) calendar days of receipt of the request, the Planning Official, or their designee, shall determine if the application is complete and notify the applicant of the determination of completeness in writing, either electronically or by U.S. mail.
- C. There shall be at minimum two public hearings to consider any legislative action. The first public hearing shall be conducted at a meeting of the Planning Commission. The second public hearing shall be conducted at a meeting of the Board of County Commissioners. All additional meetings, hearings, or procedures required by this Code or by law for consideration of the request must be completed before the Planning Commission meeting is held.
- D. The Planning Official shall provide notice of the public hearings on legislative action as follows:
  - 1. Notice shall be provided as set forth in §125.66, Florida Statutes and §163.3184, Florida Statutes, as applicable. In addition, all legislative hearings shall require the following:
    - a) Notification shall be made in each local newspaper of general circulation in Gadsden County at least ten (10) days prior to the Planning Commission hearing, and again at least ten (10) days prior to the Board of County Commissioners hearing, unless said hearing was tabled or continued from a previous hearing to a date certain.
      - i. The substance of the newspaper advertisement shall include the date, time, and location of the hearing; and, if applicable, a location map of the subject parcel(s), and the postal address if one is assigned, or alternatively the parcel ID number(s) of the subject parcel(s).
    - b) In addition to part 1. above, all proposed amendments to the Future Land Use Map shall have additional requirements which include:
      - i. At least thirty (30) days prior to the public hearing before the Planning Commission, Gadsden County shall provide by mail written notice of the proposed Future Land Use Map amendment to all property owners within one thousand (1,000) feet of the nearest boundary of

the subject parcel(s). The notice shall be mailed to the address shown on the Property Appraiser's website and shall include the time, date and location of the public hearing, and description with a location map of the subject parcel(s). In addition, if one is available, the postal address or the parcel ID number(s) of the subject parcel(s) shall also be included in the notice. A copy of the notice shall be available for public inspection during regular business hours at the Gadsden County Clerk's office.

- ii. At least ten (10), but no more than fourteen (14) calendar days prior to the first public hearing, Gadsden County shall place a notice sign on the subject parcel in a location that is visible from the most vehicular traveled public right-of-way.

**Subsection 1303. Quasi-Judicial Actions.** The following actions by the Board of County Commissioners shall be considered quasi-judicial:

- A. Variances.
- B. Special Exceptions.
- C. Issuance of Major Development Orders.
- D. Development Agreements.
- E. Appeals from Administrative Decisions.
- F. Subdivision Plats.

**Subsection 1304. Quasi-Judicial Hearing Procedures.** The following procedures shall apply to quasi-judicial actions:

- A. A request for quasi-judicial action shall be made by application on a form provided by Gadsden County no less than thirty (30) days prior to the first public hearing that will be scheduled for the request.
- B. Within seven (7) calendar days of receipt, the Planning Official, or their designee, shall determine whether or not the application is complete and notify the applicant of the determination of completeness in writing, either electronically or by U.S. mail.
- C. There shall be at minimum two public hearings to consider any quasi-judicial action. The first public hearing shall be conducted at a meeting of the Planning Commission, which shall be scheduled not less than thirty (30) days after notification of a complete application has been sent to the applicant. The second public hearing shall be conducted at a meeting of the Board of County

Commissioners. All additional meetings, hearings, or procedures required by this Code or by law for consideration of the request must be completed before the Planning Commission meeting occurs.

- D. The Planning Official shall provide notice of the public hearing on quasi-judicial actions as follows:
1. At least ten (10), but no more than fourteen (14) calendar days, prior to the first public hearing, Gadsden County shall provide by mail written notice of the request noting the time, date location, and description with a map of the request subject to public hearing. This notice shall be made to all property owners within one thousand (1,000) feet of the parcel boundary of the subject parcel(s). The notice shall be mailed to the address shown on the Property Appraiser's website and shall include the time, date, and location of the public hearing, and a location map of the subject parcel(s). In addition, if one is available, the postal address or the parcel ID number(s) of the subject parcel(s) shall also be included in the notice. A copy of the notice shall be available for public inspection during regular business hours at the Gadsden County Clerk's office.
  2. At least ten (10), but no more than fourteen (14) calendar days prior to the first public hearing, Gadsden County shall place a notice sign on the subject parcel in a location that is visible from the most vehicular traveled public right-of-way.

**Subsection 1305 Quasi-judicial Hearing Standards.** The following standards shall apply to quasi-judicial hearings held before the Planning Commission and the Board of County Commissioners:

- A. Exparte communications shall be disclosed prior to any testimony or presentation of the case.
- B. Any party or party-intervenor to the hearing may present evidence, cross-examine witnesses, and be informed as to all of the facts upon which the commission acts. The attorney for the presiding body shall make rulings on any evidentiary issue presented.
- C. The presiding body shall make decisions based upon findings of fact that are available to all parties involved. The presiding body shall specifically state the reasons for denial of an application or request.
- D. A record of hearing shall be compiled and preserved. The record must be in sufficient detail as to provide for judicial review of the legal sufficiency of the evidence to support the findings of fact made, the legal sufficiency of the findings of fact supporting the reasons given, and the legal adequacy under applicable law. Any person wishing to appeal any decision must assure that a

verbatim recording of the proceeding is made.

- E. All witnesses shall testify under oath and witness testimony shall not be limited in time.

## **SECTION 1400. VESTED RIGHTS.**

**Subsection 1401. Vested Rights Applicability.** Property owners' rights of development shall be vested when a final development order is issued by the County and the development order has not expired, or development has commenced and is continuing in good faith prior to the adoption of this Plan.

- A. Property owners' rights to conduct mining activities shall be vested so that the policies and regulations to be applied are those in effect at the time when the property owner received a permit from, or entered into an agreement with, a governmental regulatory agency authorized to issue the permit or enter into the agreement for so long as the permit or agreement is valid and effective and has not expired.

**Subsection 1402. Vested Rights Determination.** A vested rights determination may be granted to the owner or developer of a parcel or parcels of land which have received authorization for development, as determined by the Planning Official. Such determination request must be made in writing by the owner or developer. The following information must be submitted in conjunction with the request and is the sole responsibility of the applicant to provide such information:

- A. Development approvals on which the request is based, with expiration dates noted;
- B. The uses of the parcel or parcels for which the applicant believes to be vested, including densities and intensities of development;
- C. A copy of all state and local approvals/permits received for the proposed development, to include building permits granted;
- D. Anticipated time of construction and/or completion of project, as applicable, and;
- E. Any other documentation or information that supports the request.

**Subsection 1403. Effect of Vested Rights Determination.** A final vested rights determination shall identify the specific provision(s) of the Gadsden County Comprehensive Plan and/or Land Development Code which shall apply to the development. The vested rights determination shall not entitle the applicant to the issuance of any DO or permit not issued at the time of the determination.

**Subsection 1404. Termination and Expiration of Vested Rights Determinations.**

Any vested rights determination shall terminate upon the expiration, termination or determination of the invalidity of the final development order, permit, or agreement which formed the basis for the vested rights determination. Vested rights determinations shall expire within twelve (12) months of issuance of said vested rights determination, or at the time of the expiration of the development order permit, or agreement, whichever occurs sooner.

**Subsection 1405. Vesting for subdivisions, plats, and lots of record.** Any subdivision, plat, parcel, or lot recorded on or before November 26, 1991 that does not meet the minimum size requirement pursuant to density or lot size of this Code or of the Comprehensive Plan shall be vested for one residential unit per lot.

**SECTION 1500. VARIANCE PROCEDURES.** The purpose of this section is to provide a method for relief for conditions where literal application of the provisions of this Code would inflict a specific hardship to a particular property or site that is uncommon to other properties in Gadsden County, due to the natural conditions of the site. Under these provisions, only an area variance may be granted to the bulk regulations of this Code. An area variance is defined as:

- A. Regulatory controls such as lot size, floor area ratio, lot coverage (also known as impervious surface), open space, and yard setbacks that deal with the placement of a septic tank system, structure or structures on a site and/or the building envelope. The height of a structure is excluded as part of this definition.

However, in no instance shall a variance to the requirements of this Code be issued within any designated floodway if the result is an increase in flood levels within the floodway.

**Subsection 1501. Variance Relief Procedures.** So long as any issued variance will not be contrary to the public interest, the following procedures shall outline the process for consideration of a variance from a requirement of this Code.

- A. A property owner of the land, or their authorized agent, may apply for a variance from the requirements of this Code. Variance requests must be submitted on forms or applications provided by the Planning Division, and must accompany any applicable fees prior to consideration.
- B. It is the burden of the applicant to demonstrate that a variance is needed to allow reasonable use of the property on which the variance is sought. The applicant must address each standard of review, as listed in this subsection.
- C. The Planning Official, or their designee, shall review the variance application and provide a staff report to be submitted to the Planning Commission. The application must be submitted to the Planning Official at least thirty (30) days prior to hearing at the Planning Commission.

- D. Variance requests shall be considered a quasi-judicial procedure, and such hearing and notice requirements are outlined in Subsection 1304 of this Code.
- E. The Planning Official, or their designee, shall prepare the staff report with an analysis of the standards of review. The standards of review for issuance of a variance are as follows:
1. Special conditions and circumstances exist which are peculiar to the land and which are not applicable to other land in the same land use category.
  2. The special conditions and circumstances that exist do not result from the actions of the applicant or a self-imposed hardship, nor could the condition or circumstances be corrected or avoided by the applicant. As such, the issuance of the variance shall not confer on the petitioner the grant of a special privilege.
  3. The relief granted is the minimum degree of relief necessary to make possible the reasonable use of the land in compliance with all other applicable regulations.
  4. Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same area or land use category under the terms of this Code or would render the enforcement of this Code impractical.
  5. The grant of the relief will not violate the general intent and purpose of this Code nor the goals, objectives, or policies of the Comprehensive Plan.
  6. The issuance of any variance will not create unsafe conditions nor other detriments to the public health, safety or welfare beyond the normal effects of development otherwise allowed.
  7. The issuance of any variance will not alter the essential character of the area surrounding the site.
- F. The burden of proof for the above standards shall be upon the applicant. The variance request must meet all seven standards, as listed above, in order for a grant of relief from this Code.
- G. The Planning Commission may recommend, and the Board of County Commissioners may impose reasonable conditions and/or limitation on variance approvals.
- H. The Board of County Commissioners shall approve or deny the variance request, or approve the request with reasonable conditions, at a regularly

scheduled public hearing.

**Subsection 1502. Variance Exceptions.** In conjunction with the vesting rights in Policy 1.3.5 of the Comprehensive Plan, the requirement to obtain a variance is waived for the placement of on-site sewage treatment systems on parcels that allow for residential use and were created prior to November 26, 1991 so long as the on-site sewage treatment system setback standards are met to the greatest extent possible.

**SECTION 1600. APPEALS.** Any aggrieved or adversely affected party may appeal a final order, interpretation, final permit, vested rights determination, or other action having the effect of being a final decision taken by the Planning Official.

**Subsection 1601. Scope.** Appeals filed pursuant to this Section shall be limited to final decisions made relative to this Code only. Final decision are those decisions, orders, determinations, or interpretations of this Code made by the Planning Official.

**Subsection 1602. Standing.** Legal standing for appeals filed pursuant to this section shall be limited to parties which have incurred special damages peculiar to the party which differ in kind to the damages suffered by the community as a whole.

**Subsection 1603. Procedures for Appeals from Administrative Decisions.** If an applicant seeks to appeal a decision made of this Code by the Planning Official, the following procedure applies:

A. Any applicant or other person directly affected by an administrative decision who desires review or appeal of an administrative decision made by the Planning Official shall file a written request for such review, within thirty (30) days after the date of the Planning Official's written decision, to the Planning Division. Such request shall provide a detailed explanation as to the merits of the challenge to the administrative decision. The request shall include the following information:

1. The name of the party filing the appeal;
2. Code citation or other reference as used by the County to identify the appeal;
3. The administrative decision being appealed;
4. Any documentation supporting the appeal of the administrative decision;
5. A statement with specific language of which the appeal is based and a description of how the administrative decision was made; and
6. A statement of proposed resolution.

B. The Planning Official shall prepare an analysis of the administrative decision and

schedule the appeal for quasi-judicial action in accordance with Subsections 1304 and 1305..

**Subsection 1604. Appeals to other actions.** Appeals made to any other final action made by the Board of County Commissioners, such as local land use decisions made in context of a quasi-judicial hearing, shall be made to circuit court.

**Subsection 1605. Other Relief.** All other relief shall be as provided by law.

## **SECTION 7000. DEVELOPMENT ORDERS**

**Subsection 7001. Purpose.** This chapter sets forth the application and review procedures required for obtaining a Development Order (DO) and certain types of permits.

### **Subsection 7105. Processing Applications.**

#### **E. Development Order Decision:**

1. Action shall be taken as follows for Type I or Type II Review.
  - a. The Development Order shall be granted within fifteen (15) working days of receiving comments from each referral agency, provided all applicable standards of this Code are met. Approvals shall be based upon the application, compliance with standards, an affirmative capacity to serve determination, other evidence submitted, and comments from referral agencies and approvals required by others. Where a referral agency specifies conditions to be met during the actual development, it shall be noted on the Development Order that the Certificate of Occupancy shall be withheld until compliance is verified.
  - b. The Development Order may be denied when the proposed development does not comply with all applicable standards of this Code. In the event that applications may qualify for consideration under variance procedures, the applicant will be advised of the additional processes and criteria in Subsections 7203 and 7300. Such action shall be taken within fifteen (15) working days following the review period in Subsection 7107.D. below. When required approvals are not referral agencies, Development Order approvals may be withheld.
  - c. A conditional approval shall be granted when the proposed development meets all applicable standards of this code but lacks a procedural requirement. Action shall be taken within fifteen (15) working days following the review period specified in Subsection 7107.D. However, the Development Order itself, shall not be issued until the specified conditions have been satisfied. Conditional approvals expire forty (40) working days after notice if the applicant fails to satisfy the conditions; notice of denial of the Development Order shall then be issued.
  - d. A Development Order shall be issued within ten (10) working days following approval by the Board of County Commissioners or the required subsequent procedures shall be initiated based upon the Board of County Commissioners actions.
  - e. The applicant shall be notified of an unfavorable decision within ten (10) working days following denial by the Board of County Commissioners.

The right to appeal is described in Chapter 1 of this Code.

2. Referral agencies and any other agencies or individuals entitled to notice shall be informed of the nature of the application. Such notification shall include the date that the decision becomes effective and shall describe the appeal process procedures of Chapter 1.
3. When an appeal is filed in a timely manner by an aggrieved person other than the applicant, the Development Order shall not be released until a decision is rendered on the appeal.

**Subsection 7106. Re-submission of Conditional Approval.** Applicants requesting development order approvals shall have the right to make appropriate alterations, or otherwise show evidence of meeting specified conditions within forty (40) working days following a notice of conditional approval of a development order. Re-submission or providing information to meet conditions shall not require payment of fees (unless re-submission requires separate applications, such as platting). Any submittal which does not meet the forty (40) day deadline shall not be considered and the application shall become void.

**SECTION 7200. REVIEW PROCEDURES.** This section outlines the specific review procedures. These procedures are initiated once the application is deemed complete pursuant to Section 7100.

**Subsection 7201. Type I Procedures.**

- C. A decision by the Planning Official may be appealed in accordance with Subsection 1603.

**Subsection 7202. Type II Procedures.**

- A. Type II application(s) shall be used in reviewing the following applications which require a quasi-judicial hearing process:
  1. Conceptual, Preliminary and Final major subdivision plat approval.
  2. Location and site plan approval for a Mobile Home development. A Mobile Home development includes a Mobile Home Subdivision and Mobile Home Park.
  3. Location and site plan approval for multi-family developments (all residential developments greater than four (4) dwelling units), excluding multi-family developments in the USA and COMMERCIAL land use categories. See Subsection 5103.3.b. of this Code.
  4. Site Plan for commercial campground.
  5. Location and site plan approval for condominium development, Recreational Vehicle (RV) Park and Mobile Home Park.
  6. Development of Regional Impact approvals or Notices of Proposed Change

to a DRI.

7. Location and site plan approval for an Adult Congregate Living Facility (ACLF) and Day Care Center.
8. Location and site plan approval for all adult entertainment uses.
9. Location and site plan approval for Class II land use activities.
10. Special Exception Use approvals and the extension of discontinuance.

**Subsection 7203. (Reserved)**

## SECTION 7300. SPECIAL EXCEPTION USES.

**Subsection 7301. Standards for Special Exception Uses.** The approval of a special exception use does not create precedence as each use is considered on a case-by-case basis. Due to the nature of special exception uses, criteria shall be applied to ensure compatibility of the proposed use with adjacent and nearby uses and developments. The burden is on the applicant to prove by substantial evidence that the granting of the special exception is in the public interest.

A. Required Information. At minimum, the following information must be provided in writing and on a site plan, as applicable, as part of the application in order for consideration of the request:

1. Describe the proposed special exception use;
2. The physical factors by which the environmental impacts of the project on the site and adjacent sites can be assessed;
3. The scale and character of the proposed special exception use in relationship to adjacent and nearby uses and structures;
4. Setbacks required and proposed to insure compatibility;
5. Transportation impacts, access and location;
6. The location of available utilities;
7. The location, dimensions, and lighting of signage;
8. The location of off-street parking and loading areas where required and screening detail, if applicable;
9. The exterior lighting detail with reference to glare, traffic safety and compatibility with surrounding properties;
10. The location of refuse and service areas, with particular reference to location and screening in relation to adjacent uses;
11. Buffering and screening detail at 1.5 times the buffer requirements including type, dimensions and materials;
12. Days and hours of operation;
13. Number, frequency, and duration of special events annually;
14. Measures to insure compatibility including but not limited to those listed in Subsection 5002.B, Compatibility of the Land Development Code.

B. Criteria for approval. The following criteria shall be used in the determination of the issuance of the special exception use:

1. Compatibility of the proposed special exception use with adjacent and nearby uses in terms of use, scale, character, height, setbacks, and open space;
2. General compatibility with adjacent and nearby properties;
3. The noise, glare or odor effects of the use on surrounding areas;
4. The impacts of refuse and service areas, with particular reference to location and screening in relation to adjacent uses;
5. The impacts of off-street parking and loading areas on adjacent uses;

6. The impacts of signs and proposed exterior lighting if any with reference to glare, traffic safety and compatibility with adjacent and nearby properties;
  7. The impacts of transportation access and location with respect to abutting transportation facilities particularly in reference to automotive, bicycle, pedestrian, public service and fire safety, convenience, traffic flow and control;
  8. Utilities, with reference to location and availability;
  9. The adequacy of buffers with reference to type, dimensions and character;
  10. The impacts of hours of operation and the frequency and duration of special events;
  11. The adequacy of setbacks and buffers in screening and insuring compatibility with adjacent properties;
  12. Compliance with supplemental requirements set forth in the Land Development Code for the particular use involved.
- C. Conditions and Safeguards. In granting a special exception, the Board of County Commissioners may prescribe specific conditions to address the criteria listed in Part B above as a condition of the approval of a special exception use.
- D. Expiration, Extension and Revocation. A development order shall be issued for the special exception use within twelve (12) months from the date of grant, unless an extension is granted by filing an appeal to the Planning Official. The extension request must demonstrate that the use is being actively pursued by evidence of an application for building permit, preliminary site or development plan, preliminary plat, state permit or other evidence satisfactory to the Board. The extension shall not exceed six (6) months from the expiration of the special exception approval. No more than one (1) extension may be granted.
- Noncompliance with the terms of the special exception shall be deemed a violation of the special exception approval and shall be resolved within 90 consecutive days or the special exception use shall be revoked.
- E. Discontinuance. Unless an extension is approved by the Board of County Commissioners within two (2) years of the discontinuance of the use for which the special exception was granted, the special exception use shall expire. An application for extension shall be filed with the Planning Division and be supported with evidence demonstrating that the use was being actively pursued, such as but not limited to the continuation of electrical services, an active real estate contract, a contract to buy or sell the use, building permits, etc. No more than one (1) extension may be granted.
- F. Quasi-Judicial. A special exception use shall be considered at a quasi-judicial hearing and shall adhere to the requirements of Subsection 1304.

**SECTION 7400. VACATION OF RIGHTS-OF-WAY.**

**Subsection 7401. Vacation of Rights-Of-Way and Public Easements.**

A. Vacation Criteria: A proposal to vacate a right-of-way or easement or other public place shall be conducted under the Type IV procedure with supplements or modifications required to comply with State law. A proposal to vacate a right-of-way, easement or other public place shall be filed on the appropriate application to the Board of County Commissioners. The County Commission shall make affirmative findings on the following criteria if the vacation is to be granted:

1. The proposal is consistent with the Comprehensive Plan.
2. The public interest will not be compromised by the vacation.
3. The vacation will not prevent any property from having access to a public right-of-way.
4. The market value of abutting properties may not be substantially reduced without the consent of the owners of the affected properties, or unless provisions have been made to pay damages.

B. Conditions Attached to a Vacation: The following reservation or conditions may be attached to the approval of the vacation:

1. Retention of an easement for a public utility or other public service facility and limitations on the use of the area adjacent to such facility.
2. Construction or removal of a County or other public service utility.
3. Re-platting in or abutting the area to be vacated.
4. Other matters related to any of the following:
  - a. The area to be vacated.
  - b. A remaining or relocated street area within or adjacent to the vacated property.
  - c. An area dedicated or reserved as a condition of the vacation.

**SECTION 7400. Development Permits.** Permits shall be required for any construction, reconstruction, installation of pools, signs or other items covered by the technical codes listed in Section 3100 of this Code. Required permits for development include, but are not necessarily limited to:

- A. Environmental Management Permit. Prior to engaging in any development activity, and prior to removing, damaging, or destroying any protected tree, the person proposing to engage in such activity and the owner of the land on which such activity is proposed to occur shall first apply for and obtain an Environmental Management permit. Applications for tree removal shall not be necessary for the removal of any trees when the removal is part of a bona fide Silviculture activity, pursuant to BMP's and other exempt activities. Responsibility for monitoring tree and vegetation removals on developed land and for enforcement of the standards of Subsections 5404 and 5406 shall rest with the Department of Planning.
- B. Stormwater Management Permit. Subsequent to construction of a stormwater retention or detention facility, a stormwater management permit shall be obtained from the Florida Department of Environmental Protection, Gadsden County and any other applicable agencies.
- C. Right-of-Way Placement Permit. Utility work or other construction of improvements undertaken in an existing public right-of-way may be permitted. Work is to be performed in a manner consistent with the requirements of the Gadsden County Department of Public Works.
- D. Other Permits. Every permit issued pursuant to this Code is issued with the condition that the applicant procure and comply with all other necessary federal, state and local agency permits.
- E. All permit applications shall be accompanied by a certified copy of the Development Order issued for the use or site being developed.
- F. Applications for subsidiary developments shall be filed with the Planning Department. Subsidiary developments in most cases are processed as a Type I Review. The Planning Department shall be responsible for verifying compliance with applicable standards in this Code concerning subsidiary development.
- G. Applications for building and/or construction permits, permits for signs, pools and other installations shall be filed with the Building Inspections Department which shall be responsible for verifying compliance with all applicable standards.
- H. Permits for temporary signs may be approved by the Building Official upon application to the Building Inspections Department.
- I. Building permits shall be administered in accordance with the Florida Building Code and its relevant chapters of the Florida Administrative Code as adopted.
- J. Clearing Permits;
  - 1. Clearing of any deciduous trees greater than eight inches (8") in diameter in the front buffer zone along corridor roads. This shall apply to all residential,

commercial, urban service, public and industrial lands.

2. Clearing prior to development shall only occur with a valid letter of permission from the Planning Department for sites that are in the final stages of development approval and shall require an approved clearing or landscaping plan and shall have appropriate barricades and erosion control measures approved prior to clearing operations.

#### **SECTION 7500. RESERVED**

#### **SECTION 7600 RESERVED**

#### **SECTION 7700. DEVELOPMENT AGREEMENTS.**

**Subsection 7701. Applicability.** Gadsden County may enter into a development agreement with any person having a legal or equitable interest in real property located within the unincorporated portion of the County. All requirements of Sections 163.3220 – 163.3243, Florida Statutes, must be met. However, a development agreement may not be written to delegate the Board of County Commissioners' power to reclassify a land use category for any parcel or rezone any parcel at a future time.

**Subsection 7702. Submittal requirements.** An application for a development agreement must include the following information.

- A. Legal description of the lands subject to the agreement;
- B. The persons, firms, or corporation having a legal or equitable interest in the land;
- C. The desired duration of the development agreement, but not exceeding thirty (30) years;
- D. The development uses permitted on the land including population densities and building intensity and heights;
- F. A description of all existing and proposed public facilities that will serve the land, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of development;
- G. A finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;

- H. A description of any reservation or dedication of land for public purposes;
- I. A description of all local development permits approved or needed to be approved for the development of the land;
- J. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens;
- K. A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.
- L. A description of all environmentally sensitive lands, Florida Department of Environmental Protection (DEP) jurisdictional wetlands, lands which are considered environmentally sensitive pursuant to the Gadsden County Comprehensive Plan, and land subject to the jurisdiction and regulations of the Northwest Florida Water Management District shall be shown on a survey of the property.

**Subsection 7703. Contents of Development Agreement.** At minimum, the following must be addressed in the development agreement:

- A. Relevant findings, including those items as described Subsection 7702 of this Code and Section §163.3227, Florida Statutes.
- B. Definitions which apply to the terms and conditions used within the Agreement. The local regulatory stability or relief the developer is seeking throughout the term of the Agreement.
- C. A Regulating Plan or Master Plan, attached as an exhibit to the Agreement, which will be used to determine impacts of future development to Gadsden County infrastructure and services.
- D. Identified public benefits pursuant to the Agreement.
- E. A dispute resolution process.

**Subsection 7704. Public notice and hearing requirements.** Public notice and hearing requirements shall be as specified in §163.3225. In addition:

- A. The Notice of Intent to consider the development agreement shall be mailed to all subject property owners and owners of property within a 1,000 foot radius of the subject parcel(s) no more than thirty (30) calendar days or less than ten

- (10) calendar days of the first scheduled public hearing.
- B. The date, time and place of the second public hearing shall be announced at the first public hearing.
  - C. The first public hearing shall be held before the Planning Commission. The Planning Commission shall make a recommendation to the Board of County Commissioners to approve, don't approve, or approve with recommended changes the application for the development agreement.
  - D. The second public hearing shall be held before the Board of County Commissioners.

## Attachment 3 - Advertisement

# GADSDEN COUNTY BOARD OF COUNTY COMMISSIONERS PUBLIC HEARING NOTICE

The Gadsden County Board of County Commissioners will hold a regularly scheduled meeting on **Tuesday, October 20, 2015, at 6:00 p.m.** in the Board of County Commission Chambers located at 7 East Jefferson Street, Quincy, FL. The proposed agenda will include the following:

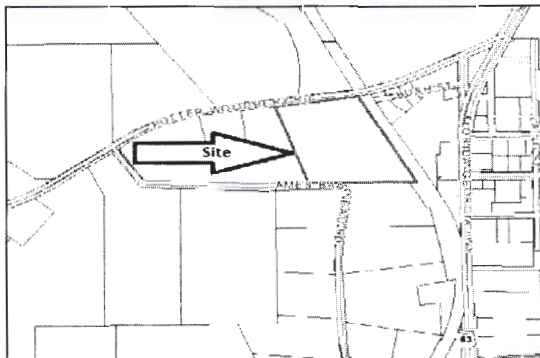
### **Public Hearing:**

1. **PUBLIC HEARING (Legislative)** – A public hearing for consideration of transmittal of the Conservation Element of the Comprehensive Plan to the Department of Economic Opportunity for review (CPA 2015-02).
2. **PUBLIC HEARING (Legislative)** – A public hearing for consideration of adoption of Ordinance 2015-012 which includes amendments to the Land Development Code, specifically to Chapter 1, Administration and Enforcement, Chapter 6, Subdivision of Land, and Chapter 7 Development Orders, Development Permits, and Development Agreements. The title of the ordinance reads as follows:

#### **ORDINANCE 2015 - 012**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA, AMENDING THE GADSDEN COUNTY LAND DEVELOPMENT CODE, AMENDING CHAPTER 1, ADMINISTRATION AND ENFORCEMENT; CHAPTER 6, SUBDIVISION OF LAND; AND CHAPTER 7, DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, AND DEVELOPMENT AGREEMENTS; PROVIDING FOR REPEAL, SEVERABILITY, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.**

3. **PUBLIC HEARING (Quasi-judicial)** – A public hearing for consideration of a special exception use for the expansion of the Talquin Electric Hinson Substation (SE-2015-1) located on Potter Woodberry Road (Tax Parcel ID# 2-22-3N-2W-0000-00123-0100).
4. **PUBLIC HEARING (Quasi-judicial)** – A public hearing for consideration of a conceptual/preliminary site plan for the expansion of the Talquin Electric Hinson Substation (SP-2015-03) located on Potter Woodberry Road (Tax Parcel ID #2-22-3N-2W-0000-00123-0100).



Persons wishing to review the files on the above projects may do so on the County website at [www.gadsdencountyfl.gov](http://www.gadsdencountyfl.gov) or at the Gadsden County Planning and Community Development Department located at 1-B East Jefferson Street, Quincy, FL. In accordance with the Americans with Disabilities Act, persons needing assistance in obtaining any information from the County or attending the public hearing should contact the County by calling 850-875-8665 or 850-510-7842, at least 48 hours prior to the hearing.

If any person decides to appeal any decision made with respect to any matter considered at such public hearing, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be used.