

CODE OF ORDINANCES
Chapter 30 - UNIFIED LAND DEVELOPMENT REGULATIONS

ARTICLE I. GENERAL REQUIREMENTS
DIVISION 1 - IN GENERAL

1 **ARTICLE I. IN GENERAL**

2 **Sec. 30-1. Short title.** [moved from 30-20(a)]

3 These regulations shall be known and referred to as the "[Town of] Lauderdale-By-The-Sea Unified
4 Land Development Regulations." The abbreviated reference will be "LBTS ULDR" or "ULDR" or
5 "LDR" or "this Chapter".

6 **Sec. 30-2. Intent and purpose.** [moved from 30-20(b) & (c)]

7 (a) *Legislative intent.* It is the intent of the Town Commission that the LBTS ULDR set forth uniform
8 regulations for the development or redevelopment of property in the Town that are consistent with:

9 (1) The Town of Lauderdale-By-The-Sea Charter;

10 (2) The Town of Lauderdale-By-The-Sea Comprehensive Plan, which may be referred to as the
11 "Comprehensive Plan"; and

12 ~~(3) The goals, objectives and policies contained in the Comprehensive Plan;~~

13 (3) F.S. ch. 163.

14 (b) *Purpose.* These regulations are enacted to:

15 (1) protect, promote, improve and enhance the public health, safety and general welfare of the
16 citizens of the Town of Lauderdale-By-The-Sea, through the adoption of minimum regulations
17 controlling the use of land, buildings and structures, and improvements thereto; and

18 (2) ~~These regulations implement the goals, objectives and policies of the adopted Comprehensive~~
19 ~~Plan of the Town of Lauderdale-By-The-Sea. regarding preservation of community character;~~
20 ~~maintenance of a rational pattern of land use; protection of natural resources; assurance of~~
21 ~~adequate public infrastructure concurrent with development impacts; protection and~~
22 ~~enhancement of taxable values of land and buildings; and, appropriate administration of~~
23 ~~procedures and enforcement activities.~~

24 **Sec. 30-3. General rules of interpretation.** [moved from 30-20(d) and renumbered from (1) to (a), etc.]

25 (a) Certain words or phrases used in these regulations are defined in the ULDR. If a word or phrase has
26 been defined, than it shall have the meaning provided in the definition.

27 (b) Where a word or phrase has not been defined, then the definition of the word or phrase contained in
28 the most recent edition of Webster's Unabridged Dictionary shall prevail.

29 (c) To resolve any ambiguity in the construction or meaning of any section of these regulations, the
30 following rules shall apply, in descending order of importance:

31 (1) Adherence to literal meaning.

32 (2) Adherence to commonly accepted meaning.

33 (3) Expressions of intent by the Town Commission as contained in the enacting legislation.

34 (4) Legislative history and conditions surrounding adoption of the regulation.

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- 35 (5) The history of interpretation by the administrators of the regulation.
- 36 (d) No interpretation is permitted which would give one person or entity a greater right or privilege to use
37 property than is given to surrounding other similarly situated property owners.
- 38 (e) Interpretation should, in all cases, favor the least intrusive use of property, rather than an expansion,
39 intensification, or increase in use.
- 40 (f) *Computation of time.* **[moved from 30-20(i)]**
- 41 (1) Unless otherwise specified, all references to day(s) means calendar day(s).
- 42 (2) If the last day of a time period is a Saturday, Sunday or legal holiday, the period shall run until
43 the end of the next day that is neither a Saturday, Sunday nor legal holiday.
- 44 **Sec. 30-4. Fees.** **[moved from 30-53(d)]**
- 45 (a) *Service charges and cost recovery.*
- 46 (1) Reasonable ~~service charges, or fees,~~ shall be collected for the administrative processing and
47 review of all development applications for development permits submitted to the Town for
48 review and approval. The schedule of ~~service charges, or fees,~~ to be collected shall be
49 established by resolution of the Town Commission.
- 50 (2) In addition to the ~~service charges and/or~~ fees collected above, the Town will impose a
51 consultant fee for the various costs attributable to the use by the Town of outside consultants
52 for reviewing and processing development ~~application~~ approval requests. Such consultant fee shall
53 be equal to the various costs of the ~~outside fee~~ consultant time expended and actual expenses,
54 including but not limited to advertising, xeroxing and long distance phone calls. The Town will
55 establish a schedule for initial deposits ~~of for the development approval applicants applications.~~
56 A financial account will be established for each development approval application. Depending
57 on the review process required, additional deposits may be required. The financial account will
58 remain active during the development review period and extending for two months beyond the
59 granting of a development order. At this time, any remaining funds will be returned to the
60 applicant. The Town will account for the deposit as well as actual costs incurred, and may
61 require any additional deposits if the initial deposit is exhausted prior to a final decision on the
62 development application that may be required as well as actual costs incurred. The applicant
63 will be refunded the unexpended balance of the deposit within two months of a development
64 order being granted.
- 65 (3) Any costs associated with the need to re-advertise or re-notice an application shall be borne by
66 the party responsible for the delay which requires a re-notice.
- 67 (4) The Town and its outside consultants will maintain adequate financial records which depicting
68 track monthly charges of hours and expenses to be charged to the applicant.
- 69 **Sec. 30-5. Comprehensive Plan adopted.**
- 70 (a) Pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act,
71 F.S. § 163.3161 et seq., the Town of Lauderdale-By-The-Sea Comprehensive Plan, as hereby
72 prepared by the Local Planning Agency, and including but not limited to:

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- 73 (1) Goals, objectives, and policies for ten elements, including coastal management; conservation;
74 intergovernmental coordination; capital improvements; economic development and
75 redevelopment; infrastructure; housing; future land use; ~~traffic circulation~~transportation; and
76 recreation and open space;
- 77 (2) Procedures for monitoring and evaluating ~~it~~ it of the comprehensive plan;
- 78 (3) Requirements for capital improvements implementation;
- 79 (4) The future traffic circulation map; and
- 80 (5) The future land use map,
- 81 all as adopted by Ordinance No. 311, and amended from time to time, are ~~is~~ incorporated by this
82 reference and ~~is~~ together form the official Comprehensive Plan for the Town.

83 (b) No land or water area, nor building or structure, may be developed or used except consistent with
84 the provisions of the Comprehensive Plan.

85

86 **Sec. 30-6. Compliance with regulations ULDR, Charter and recorded plats required.** [moved from
87 30-20(e)] [Planning and Zoning Board moved to Art.I, Div. 2]

88 (a) Except as hereinafter provided, no land or water area, nor building or structure, may be used unless
89 it is for a purpose permitted in the zoning district in which it is located, and in accordance with area
90 and dimensional requirements, off-street parking and loading, open space, pervious area, height,
91 bulk, design, and all other provisions of the ULDR and the Town Charter regulating the development
92 of land. Furthermore, no building shall be erected, converted, enlarged, reconstructed, moved, or
93 structurally altered except in conformance with the Town Code, ULDR and Town Charter ~~these~~
94 ~~regulations.~~

95 (b) If a development application depicts land previously recorded by plat, the application and proposed
96 development shall conform to such plat.

97 **Sec. 30-7. Non-binding effect of staff decisions.** [moved from 30-20(f); Board of Adjustment moved to
98 Article I Division 2; Procedures for hearing appeals moved to new Article IX Appeals; Procedures for
99 hearing variance requests moved to new Article IV Development Permits, Division 4]

100 (a) An action taken or comment made by any Town employee, including its contractors, regarding a
101 development for which approval by the Town Commission is required is advisory and not binding
102 upon the Town Commission in its review of the development application; ~~for a development permit~~
103 nor does it carry with it any right to approval of the development ~~permit~~ applications.

104 (b) No act or omission by a Town employee or its contractors in the interpretation or ~~f~~ administration of
105 the ULDR is binding if the act or omission results in an incorrect interpretation or application of the
106 ULDR.

107

108 **Sec. 30-8. Enforcement.** [moved from 30-20(g); Variances moved to new Article IV Development
109 Permits]

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110 (a) It shall be the duty of the Town Manager ~~or his/her designee~~ to administer the enforcement of the
111 provisions of ~~these regulations~~ the ULDR and to refuse to issue any development order or permit for
112 any building or for the use of any premises, which would violate same.

113 (b) For the purpose of inspection, the Town Manager ~~or his/her designee~~ shall have free access to
114 materials and work at all times and shall have the power to stop work pending investigation as to
115 materials, work, grades, use, and other provisions of the Town Code ~~these regulations~~.

116 (c) In case any building is erected, constructed, reconstructed, altered, repaired, or converted, or any
117 building or land is used in violation of ~~these regulations~~ the ULDR, enforcement of the ULDR may
118 take the form of code enforcement action, notice to appear for violation of code, injunctive relief,
119 suspension of work under a building permit, or any other administrative or judicial means of
120 enforcement.

121 **Sec. 30-9. Violations and penalties.** [moved from 30-20(h); Architectural Design Standards moved to
122 Article II Development Review Requirements]

123 (a) Any person, firm, corporation or other entity which shall violate or fail to comply with any of the
124 provisions of the ULDR ~~these regulations~~ or with any of the requirements thereof, or who shall build
125 or alter any buildings in violation of any detailed statement or plan submitted and approved
126 hereunder, shall be guilty of a Town ordinance violation and shall be liable ~~to~~ for a fine up to \$250.00
127 per day or of not more than \$500.00 per day for repeat violations. Each day such violation shall be
128 permitted to exist shall constitute a separate offense.

129 (b) The owner or owners of any building or premises, or part thereof, where anything in violation of the
130 ULDR ~~these regulations~~ shall be placed or shall exist, and any architect, builder, contractor, agent,
131 person, or corporation employed in connection therewith and who has assisted in the commission of
132 any such violation may be guilty of a separate offense, and upon conviction, fined as hereinbefore
133 provided.

134 **Sec. 30-10. - Abrogation and greater restrictions.** [copied from Chapter 9-Flood Prevention and
135 Control/PartII LBTS Code of Ordinances, Art. 1 Section 9-10]

136 This Chapter is not intended to repeal, abrogate or impair any existing easements, covenant or deed
137 restrictions not in conflict with this Chapter. However, where this Chapter and another ordinance
138 shall conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

139 **Sec. 30-11. Definitions.** [copied from 30-20 (j); Procedures and requirements for rezoning moved to
140 Article IV Development Permits, Division 6]

141 (a) *Purpose.* The purpose of this Subsection is to provide rules of interpretation of words and phrases,
142 and to define words, phrases and abbreviations contained within this Chapter.

143 (b) *Word usage.* In the interpretation of this Chapter, the following provisions and rules of this section in
144 addition to the provisions of Chapter 1 of the Code shall be observed and applied, except when the
145 context clearly requires otherwise:

146 [the following struck-through language was incorporated into Chapter 1, Sec. 1-2 of the Town Code]

147 a. ~~Words or phrases used or defined in one tense or form shall include other tenses and derivative~~
148 ~~forms.~~

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- 149 ~~b. Words or terms in the singular form shall include the plural form, and words or terms in the~~
150 ~~plural form shall include the singular form.~~
- 151 ~~c. The masculine gender shall include the feminine, and the feminine gender shall include the~~
152 ~~masculine.~~
- 153 ~~d. The word "shall" is mandatory.~~
- 154 ~~e. The word "may" is discretionary and is not mandatory.~~
- 155 ~~f. The word "person" includes individuals, firms, corporations, associations, trusts, and any other~~
156 ~~similar entity either singular or plural.~~
- 157 ~~g. The word "Town" shall mean the Town of Lauderdale-By-The-Sea.~~
- 158 ~~h. The phrase "Planning and Zoning Board" shall mean the Town of Lauderdale-By-The-Sea~~
159 ~~Planning and Zoning Board.~~
- 160 ~~i. The phrase "Local Planning Agency" shall mean the Town of Lauderdale-By-The-Sea Local~~
161 ~~Planning Agency.~~
- 162 (1) The word "Department" shall mean the Development Services Department of the Town of
163 Lauderdale-By-The-Sea.
- 164 (2) The phrase "Development Services Director" or "DSD" shall mean the Director of the Town of
165 Lauderdale-By-The-Sea Development Services Department or his or her designee.

166 (c) *Abbreviations and Definitions.*

- 167 (1) *Abbreviations.* The following abbreviations are used in this Chapter and shall have the following
168 meaning:

Ac	Acre
<u>DSD</u>	<u>Development Services Director</u>
Du	dwelling unit
ft.	foot or feet
LDR	Land Development Regulations/Unified Land Development Regulations
LPA	Local Planning Agency
max.	maximum
MF	multi-family
min.	minimum
PZB	Planning and Zoning Board
sq. ft.	square feet
SFR	single-family residential

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- 169
170 (2) *Terms defined.*
171
172 *Abut/Abutting.* The state of sharing an edge or a boundary or any portion thereof, such
173 that there is no space in between the edge or boundary; touching, contiguous.
- 174 *Accessory.* A use or structure on the same lot with, and of a nature customarily incidental
175 and subordinate to, the principal use or structure.
- 176 *Acre.* An area of contiguous land comprised of 43,560 square feet.
- 177 *Acreage, gross.* The total number of acres in an area, including acreage used or proposed
178 for streets, lakes, canals and other proposed land uses permitted in residential areas by the
179 Town of Lauderdale By The Sea Comprehensive Plan, but specifically excluding the
180 Intracoastal Waterway.
- 181 *Acreage, net.* The total number of acres in an area including utility and ingress and egress
182 easements, but exclusive of land used or proposed for streets, lakes, canals, waterways and
183 other proposed land uses permitted in residential areas by the Town of Lauderdale By The Sea
184 Comprehensive Plan.
- 185 *Alley.* A public thoroughfare or way which normally provides a secondary means of access
186 to abutting properties.
- 187 *Apartment building.* A residential rental property with four or more dwelling units.
- 188 *Awning.* Any movable or non-movable roof-like structure that is cantilevered from or
189 otherwise entirely supported by a building.
- 190 *Building.* Any structure, of either a temporary or permanent nature, that is enclosed and
191 has a roof.
- 192 *Building permit.* An official document or certificate issued by the Town building official
193 which authorizes performance of a specified activity related to land or to the demolition,
194 construction, repair, alteration, or addition to a structure.
- 195 *Business and professional employment agency.* An agency that finds people to fill
196 particular jobs or finds jobs for unemployed people and which may also provide personnel
197 services or personnel for other businesses. The definition of business and professional
198 employment agency does not include labor pools or day labor hiring centers in any form.
- 199 *Canopy.* Any fixed roof-like structure, not movable like an awning, and which is
200 cantilevered, in whole or in part self-supporting, but having no side walls or curtains other than
201 valences not more than 18 inches deep. Structures having sidewalls or valences more than 18
202 inches deep shall be classified as tents or cabanas.
- 203 *Carport.* A permanent roofed structure providing space for the parking of vehicles and
204 enclosed on not more than three sides.
- 205 *Code.* The Town of Lauderdale-By-The-Sea Code of Ordinances.
- 206 ~~*Commission.* The Town Commission of the Town of Lauderdale-By-The-Sea.~~
- 207 *Community residential facility, category 1.* A housing facility that is licensed by the State of
208 Florida for no more than eight individuals who require treatment, care, rehabilitation or
209 education. The facility is usually referred to as a group home. This includes individuals who are

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210 elderly, dependent children, physically disabled, developmentally disabled, or individuals not
211 overtly of harm to themselves or others. The facility provides a family living environment
212 including supervision and care necessary to meet the physical, emotional and social needs of
213 the individuals. It may or may not provide education or training. It may or may not have more
214 than one kitchen within the housing facility. There may be more than one special residential
215 facility category 1 on a parcel.

216 *Community residential facility, category 2.* A housing facility that is licensed by the State of
217 Florida for nine to 16 non-elderly individuals who require treatment, care, rehabilitation or
218 education. The facility is usually referred to as a group home. This includes individuals who are
219 dependent children, physically disabled, developmentally disabled, or individuals not overtly of
220 harm to themselves or others. The facility provides a family living environment including
221 supervision and care necessary to meet the physical, emotional and social needs of the
222 individuals. It may or may not provide education or training. It may or may not have more than
223 one kitchen within the housing facility. There may be more than one special residential facility
224 category 2 on a parcel.

225 *Community residential facility, category 3.*

226 a. A housing facility that is licensed by the State of Florida for more than 16 non-elderly
227 individuals who require treatment, care, rehabilitation or education. This includes
228 individuals who are dependent children, physically disabled, developmentally
229 disabled, or individuals not overtly of harm to themselves or others; or

230 b. Any housing facility licensed by the State of Florida for more than eight unrelated
231 elderly individuals; or

232 c. Governmentally subsidized housing facilities entirely devoted to care of the elderly,
233 dependent children, the physically handicapped, developmentally disabled, or
234 individuals not overtly of harm to themselves or others; or

235 d. Any not-for-profit housing facility for unrelated elderly individuals; or

236 e. Any housing facility that provides a life-care environment. A life-care environment
237 shall include, but is not limited to, creation of a life estate in the facility itself and
238 provision of off-site or on-site medical care.

239 *Consignment store.* A retail store in which new and like new personal items, such as
240 clothes, jewelry, artifacts or small furniture and excluding appliances, are resold through a
241 broker for the owner.

242 *Contiguous.* The state of sharing an edge or a boundary or any portion thereof, such that
243 there is no space in between the edge or boundary; abutting or touching.

244 *Convenience store.* A retail establishment with a maximum of 2,500 square feet of gross
245 floor area that offers for sale prepared and/or prepackaged food or beverages, including beer
246 and wine, for off-site consumption and may offer for sale automotive fuel, but offers no
247 automotive repair. Other prepackaged goods including but not limited to, household items,
248 automotive fluids and wiper blades, automotive cleaning supplies, oils, waxes and windshield
249 fluids, newspapers and magazines may also be sold. A convenience store dispensing
250 automotive fuel shall also be considered an automotive service station and shall be required to
251 meet the requirements for that use. A retail establishment as described herein that is greater
252 than 2,500 square feet of gross floor area and does not sell automotive fuel shall be considered
253 a food store.

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254 *Day labor hiring center.* A place where employees or potential employees assemble to
255 seek or accept employment off-site; a place where employers or potential employers visit to hire
256 or to seek to hire employees for employment offsite.

257 *Density, net.* The number of dwelling units existing or proposed in an area divided by the
258 net acreage of the area.

259 *Development.* The use of any structure, land or water; the change, expansion or addition to
260 any use, land or water; the carrying out of any building activity, or the making of any change in
261 the appearance of any structure, land or water, or the subdividing of land into two or more
262 parcels.

263 *Development order.* An order approving, approving with modifications or conditions, or
264 denying a development application, including but not limited to an application for conditional
265 use, plat approval, site plan, rezoning, variance, or administrative adjustment authorizing the
266 granting, denying, or granting with conditions of an application for a development permit.

267 *Development permit.* ~~Any conditional use approval~~ building or zoning permit, plat approval,
268 ~~site plan approval, rezoning, certification, variance,~~ or other action having the effect of
269 permitting development.

270 ~~*Development Review Committee.* The Development Review Committee (DRC) of the Town~~
271 ~~of Lauderdale-By-The-Sea, Florida.~~

272 *Dwelling.* A building or portion thereof, designed or used exclusively for residential
273 occupancy by one or more persons.

274 *Dwelling unit.* A room or group of rooms, occupied or intended to be occupied as separate
275 quarters by one family living as a single housekeeping unit.

276 *Dwelling, apartment hotel.* A building designed for, or containing, both apartment dwellings
277 and individual hotel guest rooms.

278 *Dwelling, apartment motel.* See "Dwelling, apartment hotel."

279 *Dwelling, bed and breakfast.* A building or part thereof, where sleeping accommodations
280 and breakfast are provided for transient guests, and which also serves as the residence of the
281 operator. A bed and breakfast may provide bathroom facilities that serve more than one room or
282 one unit.

283 *Dwelling, condominium.* A dwelling based upon a condominium form of ownership of real
284 property created pursuant to F.S. ch. 718.

285 *Dwelling, duplex or two-family.* A building containing two single-family dwelling units, totally
286 separated from each other by one dividing partition common to each unit, and contained entirely
287 under one roof and designed for or occupied by two single-family housekeeping units, each unit
288 having direct and individual access to the outside. A two-family dwelling (duplex) is a building on
289 a single lot.

290 *Dwelling, efficiency.* A furnished dwelling unit partitioned or separated into one bathroom,
291 one living area, inclusive of sleeping area dwelling which contains a cooking area, but no stove
292 or oven.

293 *Dwelling, multi-family.* A dwelling unit within a residential building containing or designed to
294 contain three or more dwelling units. The term multi-family dwelling includes, but is not limited
295 to, apartment, ~~or~~ condominium or cooperative.

296 *Dwelling, single-family.* A building comprised of a completely detached residential dwelling
297 unit, designed for and occupied by one family only.

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298 *Dwelling, timeshare.* An accommodation of a timeshare plan, as defined in F.S. ch. 721,
299 which is divided into timeshare periods. Any timeshare dwelling unit in which a door or doors
300 connecting two or more separate rooms capable of being locked to create two or more separate
301 dwelling units may only constitute one timeshare unit for purposes of F.S. ch. 721, but shall
302 count as two or more dwelling units for purposes of density calculations.

303 *Dwelling, townhouse.* A multi-story dwelling within the whole of a residential building that is
304 divided vertically into three or more dwelling units, each unit having direct and individual access
305 to the outside.

306 *Easement.* A right of use acquired to use or control property of another for a designated
307 purpose.

308 *Essential services.* The erection, construction, alteration or maintenance by public utilities
309 or municipal or other governmental agencies, of underground or overhead gas, electrical, steam
310 or water transmission or distribution systems, including poles, wires, mains, drains, sewers,
311 pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, transformer
312 substations and other similar equipment and accessories in connection therewith, reasonably
313 necessary for the furnishing of adequate service by such public utilities or municipal or other
314 government agencies or for the public health or safety or general welfare.

315 *Family.* ~~One or more persons occupying a dwelling and living as a single housekeeping~~
316 ~~unit. (1) person or a group of two (2) or more persons living together and interrelated by bonds~~
317 ~~of consanguinity, domestic partnership, marriage or legal adoption, or a group of persons not~~
318 ~~more than three (3) in number who are not so interrelated, occupying the whole or part of a~~
319 ~~dwelling as a separate housekeeping unit with a single set of culinary facilities. The persons~~
320 ~~thus constituting a family may also include gratuitous guests and domestic servants. Any~~
321 ~~person under the age of 18 years whose legal custody has been awarded to the state~~
322 ~~Department of Children and Family services (DCF) or to a child-placing agency licensed by~~
323 ~~DCF, or who is otherwise considered to be a foster child under the laws of the state, and who is~~
324 ~~placed in foster care with a family, shall be deemed to be related to and a member of the family~~
325 ~~for the purposes of this chapter. Nothing herein shall be construed to include any roomer or~~
326 ~~boarder as a member of a family.~~

327 *Food store.* An establishment that sells food items ~~and for alcoholic beverages items,~~
328 ~~which may include alcoholic beverages,~~ for off premises consumption, but shall not include a
329 package store or a convenience store. The definition of food store shall include grocery store
330 and supermarkets.

331 *Flea market.* An occasional or periodic sales activity, held within a building, structure or
332 outdoors where groups of individual sellers offer goods for sale to the public not to include
333 private garage sales. Such sellers may set up temporary stalls or tables for the sale of their
334 products. Such sales may involve new and/or used items including, but not limited to, household
335 items, antiques, rare items, decorations, used books, used magazines, jewelry, clothing and/or
336 a variety of merchandise and may also include the sale of fruits, vegetables and other edible
337 items.

338 *Floor area.* This term shall mean the total gross floor area contained within the external
339 perimeter of the exterior enclosing walls.

340 *Grade.*

341 a. For the purpose of calculating building height or structure, grade level shall mean:

342 1. The maximum height of buildings that are less than or equal to 33 feet in height
343 shall be measured from whichever of the following three levels is highest:

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- 344 i. Above grade, as defined in the Florida Building Code, or
345 ii. Above a horizontal plane 18 inches above the crown of the roadway at the
346 highest point adjoining the property on which the building is located, or
347 iii. Above the minimum elevation for a habitable, finished floor permitted under
348 applicable federal or Florida state regulations.

349 2. The maximum height of buildings that are greater than 33 feet in height shall be
350 measured from whichever of the following two levels is highest:

- 351 i. Above grade, as defined in the Florida Building Code, or
352 ii. Above a horizontal plane 18 inches above the crown of the roadway at the
353 highest point adjoining the property on which the building is located.

354 b. For the purpose of calculating the height of fences and privacy walls, grade shall
355 mean the actual elevation of the ground adjacent to the exterior face of such fence or
356 privacy wall.

357 *Hedge.* Any grouping of plants or bushes placed so close together so as to obscure
358 visibility.

359 *Height.* The height of a building or structure is measured from grade to the highest point on
360 a flat roof, or to the median elevation between the peak of a sloped roof and the lowest edge of
361 the sloped roof. In accordance with the Florida Building Code, bulkheads and penthouses used
362 solely to enclose stairways, tanks, elevator machinery or shafts or ventilation or air conditioning
363 apparatus shall not be included in determining building height; all other roof structures, including
364 parapet walls, shall not exceed four feet in height above the maximum allowed building height.

365 *Home office.* An office designed for and operated as a business located in a dwelling unit
366 and carried on by persons residing permanently and continuously in the dwelling unit during
367 such time that the home office is utilized; utilizing only telephones, computers or other common
368 office equipment that is kept completely within the home office. A home office is incidental and
369 secondary to the use of the dwelling for residential purposes, occupying no more than ten
370 percent of the gross floor area of the residential dwelling unit, and displaying no signage of any
371 type, nor merchandise of any type, and shall preclude any business operation that requires or
372 permits employees, customers, clients, delivery of goods, new materials, or merchandise, or
373 patrons to visit the dwelling. [Definition - Ordinance 2006-10 approved by referendum]

374 *Hotel.* One or more buildings or structures, or part of one or more buildings or structures
375 kept, used, advertised as or held out to be a place where sleeping accommodations, with or
376 without meals, are provided for transient lodgers; and, where a guest register or record is kept;
377 and, where except for a bed and breakfast, each room or unit contains a full bathroom
378 consisting of a minimum of a toilet, sink and shower or bathtub; and, where no kitchen is
379 provided.

380 *Kitchen.* A room or portion of a room within a building used for the storage and preparation
381 of food and containing a sink with running water, a refrigerator, range and oven.

382 *Lot.* A parcel or tract of land occupied or intended to be occupied by a primary or principal
383 structure or use, and their accessory structures and uses, together with such yards and open
384 spaces as required by this Chapter. A lot may consist of one or any combination of one or more
385 platted lots, legal lots of record and unplatted land.

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386 *Lot area.* The total area of land contained within the lot lines.

387 *Lot, corner.* A lot situated at the intersection of two streets and having street frontage along
388 two or more sides of the lot.

389 *Lot line, front.* The line dividing a lot from the street that provides direct access to the lot.
390 On a corner lot, the shorter of two front lot lines as herein defined shall be considered the front
391 lot lines for the purposes of determining required lot width and required front yard depth. The
392 property owner may designate a different lot line as the front lot line if the setbacks for the new
393 yard designations are met. If not, the setbacks may only be changed if a variance is obtained.

394 *Lot line, rear.* The line opposite and most distant from the front lot line. In the case of a
395 triangular lot wherein the two side lot lines converge toward a point in the rear yard, the rear lot
396 line shall be considered to be a line at least ten feet in depth within the lot and parallel to and at
397 the maximum distance from the front lot line.

398 *Lot line, side.* Any lot line other than a front lot line or rear lot line.

399 *Lot, legal of record.* Any lot that has been validly recorded in the public records of the
400 county in which the lot was located at the time of recording, and that complied with all applicable
401 laws, ordinances and regulations at the time of recordation, including but not limited to, those
402 pertaining to dimension and area.

403 *Lot, platted.* A parcel or tract of land designated and identified as a single unit of area in a
404 subdivision plat that has been officially recorded in the appropriate public records.

405 *Lot, through.* An interior lot having frontage on two streets.

406 *Market.* A retail establishment specializing in the sale of certain goods and products [i.e., a
407 fish market]. The definition of market does not include flea market.

408 *Motel.* See "Hotel."

409 *Motorized scooter/moped.* The definition of motorized scooter and the definition of moped
410 shall be as set forth in F.S. § 316.003.

411 *Nonconforming structure.* Any structure that is in compliance with the zoning regulations
412 applicable at the time the structure was established ~~and for which all required permits~~, which
413 structure would be prohibited, restricted or would otherwise not conform to the ULDR.
414 Nonconforming structures shall include those structures that do not comply with the yard, lot
415 coverage, height, density or any other structural restrictions of the ULDR.

416 *Nonconforming uses.* A building or land occupied by a use that does not conform with the
417 regulations of the zoning district in which it is situated.

418 *Normal grade.* See Grade.

419 *Package store.* Vendors licensed to sell all alcoholic beverages, but in sealed containers
420 only, and for consumption off the premises.

421 *Parcel/plot.* A tract of land under common ownership and developed or proposed for
422 development as a unified whole, which contains one or more platted lots.

423 *Personal services.* Any business activity primarily engaged in providing services involving
424 the care of one's person or their apparel, eyewear, jewelry and other items worn on one's
425 person, which may include barbershops, beauty salons, dry cleaning pick-up service,
426 seamstress, shoe repair, tailor, and other similar uses. Astrologists and other fortune telling
427 activities, medical services, mortuaries, and related businesses shall not be considered
428 personal service establishments.

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429 *Pervious area.* The noncompacted land located at ground level, open to the sky allowing
430 passage of air and water to the subsurface and used or set aside for landscaping.

431 *Planning and Zoning Board.* The Planning and Zoning Board (PZB) of the Town of
432 Lauderdale-By-The-Sea, Florida.

433 *Plot.* A parcel of ground containing more than one lot upon which a building and its
434 accessory buildings have been or may be erected.

435 *Porch.* A roofed space attached to the outside of any outer wall of a building, one or more
436 stories in height, open on one or more sides, which have screen or glass enclosure. An open or
437 unenclosed porch is one without railing, glass, canvas, screen or similar materials on the open
438 sides.

439 *Principal building.* A building occupied by and devoted to a permitted principal use.

440 *Professional office.* Office space designated to provide suitable space for use by those
441 having great skill and experience in a particular field of activity, such as but not limited to
442 architects, engineers, real estate agents, accountants, attorneys, and the like.

443 *Redevelopment.* The recycling or restoration of property to its highest and best use.

444 *Residential use.* Use of land for one or more dwellings, dwelling units, hotel or motel units.

445 *Restaurant.* Any establishment where facilities are provided for preparing and serving food
446 to the public. At least 51 percent of total gross revenues must come from retail sale on the
447 licensed premises of food and non-alcoholic beverages. Proceeds of catering sales shall not be
448 included in the calculation of total gross revenues. Catering sales include food or non-alcoholic
449 beverage sales prepared by the licensee on the licensed premises for service by the licensee
450 outside the licensed premises. The tables must be of adequate size to accommodate the
451 service of full course meals in accordance with the number of chairs or other seating facilities
452 provided at the table. Sale of alcoholic beverages for off-premise consumption is not permitted.

453 *Right-of-way.* Land conveyed or dedicated by plot, deed, easement or other conveyance
454 that is devoted to, required for or intended for the use of the public as a means of public
455 traverse and other public purposes.

456 *Roof, flat.* A roof having a slope of less than ten percent. Where more than 25 percent of
457 the roof area of a building is a flat roof, then the entire roof shall be deemed to be a flat roof.

458 *Roof, gable.* A roof that slopes downward from a central ridge to form a gable, which is a
459 triangular portion of the wall between roof sections.

460 *Roof, gambrel.* A roof with two slopes on each side of a central ridge, the lower slope being
461 steeper than the upper slope.

462 *Roof, hip or hipped.* A roof with sloping ends and sloping sides.

463 *Roof, mansard.* A roof that has two slopes on each of the four sides, the lower slope being
464 almost vertical to the ground, and the upper being almost horizontal to the ground.

465 *Setback.* The minimum horizontal distance between a structure and a property line of a lot
466 or plot.

467 *Setback, front.* A yard extending across the full width of the lot, lying between the front lot
468 line and the nearest point of any building or structure.

469 *Setback, rear.* A yard extending the full width of a lot, lying between the rear line of the lot
470 and the nearest line of the principal building.

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471 *Setback, side.* A yard between a building or structure and adjacent side lot line of the lot
472 and extending from the front yard to the rear yard.

473 *Short term tenancy uses.* A hotel, motel, apartment hotel dwellings, apartment motel
474 dwellings, time share dwellings, and bed and breakfast dwellings, as those terms are defined
475 herein.

476 *Sidewalk.* That area, whether privately owned or a portion of the right-of-way, which is
477 located between the curbline or the lateral line of a street and the adjacent building and which is
478 intended for use by pedestrians.

479 *Sidewalk café.* A use located on a sidewalk or portion of the right-of-way which is
480 associated with a restaurant or food establishment where food or beverages are delivered and
481 licensed for consumption on the premises. It shall be characterized by the presence of tables
482 and chairs and may be shaded by awnings, canopies or umbrellas if permits for same have
483 been issued. See Chapter 17.

484 *Story.* A portion of a building, above the grade on which the building is located, between
485 the upper surface of any floor and the upper surface of the floor next above. If there is no floor
486 next above, then the story shall be measured from the upper surface of the last floor to the top
487 of the tie beam.

488 *Street.* A public thoroughfare or any other vehicular access way other than an alley,
489 recorded in the public records of Broward County, Florida, for the purpose of providing access
490 to and from abutting properties.

491 *Street line.* The right-of-way line of a street.

492 *Structure.* Anything constructed or erected, the use of which requires a location on the
493 ground or attached to something having a location on the ground, including, but not limited to,
494 buildings, fences, signs, swimming pools, swimming pool decks, tennis courts, tents, canopies
495 and walls. Driveways and sidewalks constructed at grade are not considered structures.

496 *Swale.* A shallow trough depression that holds or carries water mainly during rainstorms.

497 *Tent.* Any structure or enclosure, the roof of which and/or one-half of the sides are silk,
498 cotton, canvas, fabric or material.

499 *Tie beam.* A horizontal timber or beam that connects two opposite members or wall
500 structures, situated at the top or near the top of the members or wall structures, and so placed
501 to keep the members or wall structures vertical to the ground.

502 *Trafficway.* Any road identified on the Broward County Trafficways Plan as amended from
503 time to time.

504 *Trailer.* Any vehicle without motive power designated to be coupled or drawn by a motor
505 vehicle and constructed so that no part of its weight or that of its load rests upon the towing
506 vehicle.

507 *Used.* ~~The word "used" shall include~~ Utilized or arranged, designed, constructed, altered,
508 converted, rented, leased, or intended to be used.

509 *Vacation rental.* The lease or rental, or offering for lease or rental, of a single-family or
510 townhouse dwelling, to a person or entity that has no ownership interest in the dwelling, for
511 compensation or remuneration and for no fewer than seven consecutive days. Vacation rental
512 shall not include:

513 a. Rentals of at least three consecutive months; and

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514 b. Hotels, motels, or similar transient uses.

515 *Vehicle.* Any wheeled device used or intended for use in carrying people, animals, goods
516 or equipment.

517 *Vessel.* Includes every description of boat, watercraft, barge and airboat capable of being
518 used as means of transportation on water.

519 *Waterway.* Any navigable waterway that provides access for a watercraft to and including
520 the Intracoastal Waterway.

521 *Yard.* See "Setback."

522 *Zoning Permit.* A document signed by the Town Manager or DSD, as a condition
523 precedent to the commencement of a use or the erection, construction, reconstruction,
524 restoration, alteration, conversion, or installation of a structure, building, or sign, which
525 acknowledges that such use, structure, sign or activity complies with the provisions of the ULDR
526 or authorized variance therefrom. A building permit may incorporate zoning review and
527 approval.

528 **Secs. 30- 12.—30-20. Reserved.** [30-12 Vested rights determinations and 30-13 Quasi-judicial
529 proceedings moved to Article IV Development Permits. Divisions 7 and 10 respectively; Section 30-20
530 General Provisions moved to Section 30-2]

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531 ***DIVISION 2. – ADMINISTRATION AND BOARDS***

532 **Sec. 30-21. Establishment.** [new language; Non-conforming uses and structures moved to Article IV
533 **Division 8]**

534 The following positions, agencies and boards are created and established to perform the duties provided
535 herein in relation to the issuance of development permits and approvals:

536 (a) Development Services Director;

537 (b) Planning and Zoning Board;

538 (c) Board of Adjustment;

539 (d) Local Planning Agency.

540 **Sec. 30-22. Development Services Director Review Administration.** [moved from 30-52; Zoning relief
541 **procedures moved to Article IV, Division 9]**

542 The Town Manager shall designate a paid Town staff person as the Town's Development Services
543 Director (DSD). The DSD shall be responsible for the coordination, review, issuance and enforcement
544 of development orders as set forth in this Chapter, including, but not limited to: The designated party, the
545 Development Review Official (DRO), will be responsible for:

546 (a) Accepting and processing applications for development permits.

547 (b) Reviewing applications for completeness.

548 (c) Initiating development review procedures and chairing the Development Review Committee
549 meetings.

550 (d) Coordinating the review of applications for development permits.

551 (e) Delineating areas of noncompliance with the Town's development requirements.

552 (f) Defining steps necessary to bring permit applications into compliance with development
553 requirements.

554 (g) Issuing development orders in compliance with the requirements and procedures of this Chapter.

555 (h) Answering all questions of interpretation and enforcement of this Chapter.

556 **Sec. 30-23. Board and agency procedures, expenses and staffing.** [moved from 30-6 and 30-7 –
557 **eliminates duplication by moving provisions that were addressed in Planning and Zoning Board, Local**
558 **Planning Agency AND the Board of Adjustment sections to this one location; 30-23 was previously**
559 **reserved]**

560 (a) *Procedures.* The following procedures shall be applicable to each of the Boards and to the Local
561 Planning Agency.

562 [the following 2 sections were added to ensure compliance with new statutory requirements enacted
563 by the Florida Legislature]

564 (1) *Public comment on regular agenda.* Each board and the Local Planning Agency shall provide for
565 public comment at the beginning of each scheduled meeting to allow the public the opportunity to

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566 address the board. Public comments shall be limited to not more than three minutes per person,
567 unless the board or agency authorizes a different amount of time.

568 (2) Non-agenda action. In the event there is a proposal to take any type of action, including making
569 a recommendation, which was not on the published meeting agenda available at the time of
570 public comment, the chair shall provide the opportunity for public comment on the issue prior to
571 taking any action. Public comments shall be maintained at no more than three minutes per
572 person, unless the board or agency authorizes a different amount of time.

573 (3) Additional Procedures. The Town Commission may by ~~ordinance~~ resolution fix and determine
574 additional procedures before the ~~Planning and Zoning Board boards~~ or the Local Planning
575 Agency. In addition, each board and the Local Planning Agency ~~Such Board shall~~ may adopt
576 reasonable rules and regulations for the presentation of matters ~~before such Board,~~ may appoint
577 committees to assist in research work or planning work, and may call in advisors or assistants
578 from time to time as needed, which are not inconsistent with any ~~ordinance~~ Town Commission
579 resolution relating thereto.

580 (b) ~~Established and composition, terms, qualifications of members, organizations, noncompensatory~~
581 ~~service; meetings.~~ The Planning and Zoning Board and the Board of Adjustment, each consisting of
582 five members and two alternates, ~~is~~ are hereby created.

583 (1) Membership. The Town Commission shall appoint five members and two alternates to the
584 Planning and Zoning Board and to the Board of Adjustment who shall serve at the pleasure of
585 the Town Commission and may be removed by a majority vote of the Town Commission. The
586 Town Commission shall also designate the order of priority in which the alternates shall be
587 called to serve upon the absence of a regular member.

588 (2) Term. The Town Commission shall appoint members and alternates to the ~~Planning and~~
589 ~~Zoning Boards~~ in even numbered years to coincide with the election of the members of the
590 Town Commission. The members and alternates shall be appointed at the second regularly
591 scheduled Town Commission meeting following each regular election. The term of office for all
592 members and alternates shall be two years from the date of appointment expiring on the date
593 of the election, in all even-numbered years.

594 (3) Membership eligibility. No member or alternate of the any ~~Planning and Zoning~~ Board shall be
595 an elected official or employee of the Town. Each member or alternate of a Board shall be a
596 resident and qualified voter of the Town.

597 (4) Compensation. The members or alternate of such ~~Planning and Zoning~~ Boards shall serve
598 without compensation.

599 (5) Quorum. A quorum shall consist of three voting members. The affirmative vote of a majority of
600 the quorum present and voting shall be required to take any Board action.

601 (6) Attendance. Any Board member or alternate who fails to attend three consecutive meetings
602 during a two-year term shall forfeit his or her position.

603 (7) Selection of Chair and Vice-Chair. ~~The Planning and Zoning~~ Each Board shall select a Chair
604 and Vice-Chair from among its members by a majority vote ~~who~~.

605 a. The Chair and Vice-Chair:

606 1. Shall serve in such capacity for the two-year term; and

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- 607 2. ~~The Chair and Vice Chair~~ May be replaced at any time by another majority vote
608 of the ~~Planning and Zoning~~ Board.
- 609 b. If a Chair or Vice-Chair is reappointed to the Board following an election, he or she is
610 eligible to be selected by a majority vote of the new Board to serve as either its Chair or
611 Vice-Chair.
- 612 (c) Failure of Planning and Zoning Board or Board of Adjustment to establish a quorum.
- 613 (1) In the event a meeting of the Planning and Zoning Board or the Board of Adjustment is
614 scheduled and the ~~Planning and Zoning~~ respective Board fails to establish a quorum to
615 consider an ~~appeal or a variance~~ application, the applicant shall have the option to either:
- 616 a. Reschedule the pending application to the next available date that the ~~Planning and~~
617 ~~Zoning~~ Board can be convened; or
- 618 b. Waive hearing by the ~~Planning and Zoning~~ Board and elect to have the Town Commission
619 consider the application at the next regularly scheduled Town Commission meeting after
620 compliance with Section 30-138, Notice of Public Hearings, at which time the Town
621 Commission shall exercise all of the powers and duties of the ~~Planning and Zoning~~ Board
622 in disposing of the pending application.
- 623 ~~b. The Town Administration shall promulgate appropriate forms and notices to insure that both~~
624 ~~the applicant and all interested parties effected by the application for review is placed on notice~~
625 ~~that an application may be disposed of by either the Planning and Zoning Board, or in the~~
626 ~~event the applicant elects to proceed to the Town Commission, by the Town Commission.~~
- 627 (d) Public meetings and records. All board and agency meetings shall be public meetings, held according
628 to Florida Statutes, and all board and agency records shall be public records. ~~All meetings of the~~
629 ~~Planning and Zoning Board shall be held according to Florida Statutes and shall be open to the~~
630 ~~public. Regular meetings of the Board shall be held as needed. Special meetings may be called more~~
631 ~~often as needed. Minutes of said meetings shall be kept and preserved.~~
- 632 ~~b. From time to time the Board shall have the right to recommend to the Town Commission that~~
633 ~~stenographers, typists, and clerical help be employed from time to time within the limits of the funds~~
634 ~~provided.~~
- 635 (e) Expenses. Each board and the Local Planning Agency shall have the right to incur miscellaneous
636 expenses from time to time as necessary in the implementation of their duties; however, no expenses
637 shall be incurred prior to approval of the Town Commission and no member of any board shall draw
638 any compensation for his services.
- 639 (f) Town Staff. The Town Manager, Town Building Inspector, Town Attorney, DSD, and other Town
640 officials are considered staff to the Town Planning and Zoning Board, LPA and Board of Adjustment,
641 and may be called on from time to time to meet with the Boards or agency.
- 642 (g) Clerk. The Town Manager shall designate a Clerk of the Town Planning and Zoning Board, the LPA
643 and the Town Board of Adjustment. ~~Upon recommendation of the Town Planning and Zoning Board,~~
644 ~~the Town Commission shall designate a Clerk of the Town Planning and Zoning Board, who shall~~
645 receive such compensation as may be fixed and determined. It shall be the duty of the Clerk to keep
646 an accurate record of the minutes of the meetings and to keep and preserve any and all records of
647 the Boards and the Local Planning Agency.

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648 **Sec. 30-24. Planning and Zoning Board.** [moved from 30-6(a)(4); 30-24 was previously reserved]

- 649 (a) *Duties of the Board generally.* The Town Planning and Zoning Board shall have the following duties:
- 650 (1) To act in an advisory capacity to the Town Commission on questions relating to zoning and on
651 matters of proposals to change zoning regulations, site plan applications and conditional use
652 applications to report its findings and recommendations on such proposals to the Town
653 Commission;
- 654 (2) To study any existing Town plan, with the view to improving same as to provide for the
655 development, general improvement, and probable future growth of the Town, and from time to
656 time, make recommendations to the Town Commission for changes on the existing Town plan
657 so as to incorporate new developments, for the adoption of a new Town plan;
- 658 (3) To investigate and approve or disapprove all new plats to be presented to the Town
659 Commission for approval; and
- 660 (4) To perform such other duties as may from time to time be assigned to such Board by the Town
661 Commission.

662 **Sec. 30-25. Local Planning Agency.** [moved from 30-6(b); 30-25 was previously reserved]

- 663 (a) *Board-designated Local Planning Agency - LPA.*
- 664 (1) *Authority.* This Section is enacted pursuant to, and in accordance with, provisions of F.S. ch.
665 163 (Local Government Comprehensive Planning Act of 1975).
- 666 (2) *Designation, establishment of Local Planning Agency (LPA).* Pursuant to, and in accordance
667 with, F.S. § 163.3174 (Local Government Comprehensive Planning Act of 1975), the Town
668 Planning and Zoning Board for the Town of Lauderdale-By-The-Sea, Florida, is hereby
669 designated and established as the LPA for the Town of Lauderdale-By-The-Sea, Florida. In
670 addition, the LPA shall include a representative of the school district appointed by the Broward
671 County School Board as a non-voting member during those meetings at which comprehensive
672 plan amendments and rezonings, which, if approved, would increase residential density on the
673 property, are considered. The School Board shall appoint a School District staff member to be
674 its non-voting representative and to attend those meetings at which comprehensive plan
675 amendments and rezoning, which if approved, increase residential density on the property that
676 is subject to the application.
- 677 (b) *Duties and responsibilities.* The LPA, in accordance with the Local Government Comprehensive
678 Planning Act of 1975, F.S. §§ 163.3161 through 163.3211, shall:
- 679 (1) Conduct the comprehensive planning program and prepare the Comprehensive Plan or
680 elements or portions thereof for the Town of Lauderdale-By-The-Sea, Florida, in accordance
681 with the requirements provided by law;
- 682 (2) Coordinate said Comprehensive Plan or elements or portions thereof with the comprehensive
683 plans of other appropriate local governments and the State of Florida as may be required by
684 law;
- 685 (3) Recommend said Comprehensive Plan or elements or portions thereof to the Town
686 Commission of the Town of Lauderdale-By-The-Sea, Florida for adoption;

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- 687 (4) Monitor and oversee the effectiveness and status of the Comprehensive Plan and recommend
688 to the Town Commission of the Town of Lauderdale-By-The-Sea, Florida, such changes in the
689 Comprehensive Plan as may be required from time to time; and
- 690 (5) While the Planning and Zoning Board is sitting as the LPA, all requirements of 30-23 not
691 inconsistent with this Section shall apply.
- 692 ~~(3) *Organization, rules, procedures of the Agency.* Members of the Local Planning Agency shall~~
693 ~~continue to be appointed and follow such rules of procedure, methods of choosing officers, setting of~~
694 ~~public meetings, providing of financial support, and accomplishing its duties as provided in Article VII~~
695 ~~of the Town Charter of the Town of Lauderdale-By-The-Sea, Florida.~~
- 696 ~~(c) *Applications, procedure and decision of the Board.* [the deleted material below related to hearings was~~
697 ~~eliminated as duplicative (addressed in Article IV, Division 10 Hearing Procedures and Requirements).~~
698 ~~All material here and throughout Chapter 30 related to application procedures and processing has been~~
699 ~~relocated to a single location in Article IV, Division 1 with the exception of specialized procedures such as~~
700 ~~Zoning Relief (Article IV, Division 9) and Appeals (Article IX)]~~
- 701 ~~(1) *Decision of Board.* The decision of the Town Planning and Zoning Board in every case submitted to~~
702 ~~it for consideration shall be in writing in the form of Board minutes and shall set out with sufficient~~
703 ~~clarity and succinctness the exact recommendation.~~
- 704 ~~(2) *Hearings before Board.* In all hearings before the Town Planning and Zoning Board, Robert's Rules~~
705 ~~of Order Revised, most recent edition, shall be followed, except when procedure outlined herein is~~
706 ~~inconsistent therewith, this procedure shall be followed:~~
- 707 a. ~~The Presiding Officer of the Board shall open the hearing by announcing the purpose thereof,~~
708 ~~reading the application presented to the Board. He shall determine and state the length of time~~
709 ~~permitted each person discussing the subject. Following this, the applicant or his legal~~
710 ~~representative shall be recognized and invited to amplify the details outlined in the application,~~
711 ~~pointing out the change desired, the purpose of this appeal and his opinion of the result to be~~
712 ~~attained for the good of the community if this request is granted. Supporting proponents of the~~
713 ~~request, after giving their names and address, shall be recognized and given the opportunity to~~
714 ~~speak in its behalf.~~
- 715 b. ~~Following the presentation of the applicant's proposal, property owners and residents of~~
716 ~~Lauderdale-By-The-Sea, having objection to the proposal, shall have the opportunity to register~~
717 ~~their disapproval in the same manner as outlined above for the applicant and his supporters.~~
- 718 c. ~~After all parties desiring to do so have had the opportunity to express their opinions, the~~
719 ~~Presiding Officer shall then read all correspondence received pertaining to the case both in~~
720 ~~support of it and against it.~~
- 721 d. ~~Throughout the hearing, members of the Board shall, for their own information, be at liberty to~~
722 ~~question any person on any phase of the subject; however, Board members shall reserve their~~
723 ~~personal opinions for or against the subject during the subject discussion.~~
- 724 e. ~~A period of rebuttal to positions taken by both sides of an issue shall be provided for those~~
725 ~~interested, following which the Board's Presiding Officer shall declare the discussion period~~
726 ~~terminated. The members of the Board will then counsel among themselves, studying maps,~~
727 ~~plats and associated data and reviewing the previous testimony, in an effort to arrive at a~~
728 ~~recommendation which will be determined by a voice vote on the roll call of the Board and be~~
729 ~~carried by majority. The Board shall have the privilege of deferring a decision to a later date to~~

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730 ~~be specified at the hearing by the Board Chairman. No further notice by publication shall be~~
731 ~~necessary.~~

732 ~~(3) Application; fee.~~

733 ~~a. All applications which require review by the Town Planning and Zoning Board pursuant to this~~
734 ~~chapter shall be made on an application form prescribed and furnished by the Development~~
735 ~~Services Director and shall be numbered and preserved as a permanent record.~~

736 ~~b. Upon the filing of such an application, the applicant shall pay a fee based on the type of~~
737 ~~application, to cover the costs of application, preparation of necessary information, publication~~
738 ~~of notice, and similar in-house employee expenses, plus any additional costs incurred by the~~
739 ~~Town for third party contractors (such as the Town Attorney, the Town Planner and/or the Town~~
740 ~~Engineer). Payment shall be made to the Development Services Director. Unless such~~
741 ~~application fee is paid and notice of application filled out in proper form, the Development~~
742 ~~Services Director shall not transmit the same to the Town Planning and Zoning Board for~~
743 ~~consideration.~~

744 ~~(4) Reapplication permitted after specified lapse of time. The Town Planning and Zoning Board shall not~~
745 ~~entertain an application on any matter previously considered and upon which recommendations were~~
746 ~~made by the Board until two years have expired from the date of the entry of the previous~~
747 ~~recommendations by said Town Planning and Zoning Board; provided, however, that the applicant~~
748 ~~may make application after expiration of six months from the date of entry of the previous~~
749 ~~recommendations should there be a substantial change in circumstances, specifically alleged in said~~
750 ~~application, which change in circumstances affects the existing Town planning and zoning.~~

751 ~~(5) Presentation to Town Commission within certain time. Recommendations of the Town Planning and~~
752 ~~Zoning Board shall be presented to the Town Commission.~~

753 **Sec. 30-26. Board of Adjustment.** [moved from 30-7. The deleted material below related to creation and
754 composition; qualifications and organization was relocated to 30-23; 30-26 was previously reserved]

755 ~~(a) Purpose. It is the purpose of this section to provide procedures and guidelines for the hearing of~~
756 ~~appeals from and rendering interpretative and advisory options to applicants and the Town~~
757 ~~Commission concerning any decision of an administrative official relative to the enforcement of~~
758 ~~the requirements of the Town's zoning regulations and the authorization of variances from the~~
759 ~~requirements of the Town's zoning regulations.~~

760 ~~(b) Creation and composition; qualifications and organization. The Board of Adjustment, consisting~~
761 ~~of five members and two alternates, is hereby created.~~

762 ~~(1) The Town Commission shall appoint five members and two alternates to the Board,~~
763 ~~who shall serve at the pleasure of the Town Commission and may be removed by a~~
764 ~~majority vote of the Town Commission. The Town Commission shall also designate the~~
765 ~~order of priority in which the alternates shall be called to serve upon the absence of a~~
766 ~~regular member.~~
767

768 ~~(2) The Town Commission shall appoint members and alternates to the Board of~~
769 ~~Adjustment in even-numbered years to coincide with the election of the members of the~~
770 ~~Town Commission. The members and alternates shall be appointed at the second Town~~
771 ~~Commission meeting following each election. The term of office for all members and~~
772 ~~alternates shall be two years from the date of appointment expiring on the date of the~~
773 ~~election, in all even-numbered years.~~
774

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775 ~~(3) No member or alternate of the Board of Adjustment shall be an elected official or~~
776 ~~employee of the Town. Each member or alternate of the Board of Adjustment shall be a~~
777 ~~resident and qualified elector voter of the Town.~~

778
779 ~~(4) The members or alternates of such Board of Adjustment shall serve without~~
780 ~~compensation, but shall be paid for actual expenses incurred in performance of their~~
781 ~~duties as members or alternates of such Board as supported by invoices or vouchers, or~~
782 ~~such other evidence submitted in support of such expenses, to the extent permitted by~~
783 ~~law.~~

784
785 ~~(5) A quorum shall consist of three voting members. The affirmative vote of a majority of~~
786 ~~the quorum present and voting shall be required to take any Board action. Any Board~~
787 ~~member or alternate who fails to attend three consecutive meetings during a two-year term~~
788 ~~shall forfeit his or her position.~~

789
790 ~~(6) The Board of Adjustment shall select a Chair and Vice-Chair from among the members~~
791 ~~of the Board of Adjustment by a majority vote, who shall serve in such capacity for the two-~~
792 ~~year term. The Chair or Vice-Chair may be replaced by another majority vote of the Board~~
793 ~~of Adjustment. If a Chair or Vice-Chair is reappointed to the Board following an election, he~~
794 ~~or she is eligible to be selected by a majority vote of the new Board to serve as either its~~
795 ~~Chair or Vice-Chair. The Board may create and fill such other offices as it may determine~~
796 ~~to be necessary for the conduct of its duties.~~

797
798 ~~(7) All meetings of the Board of Adjustment shall be held according to Florida Statutes and~~
799 ~~shall be open to the public. Meetings of the Board shall be held as needed.~~

800 ~~(b) —~~

801 (a) *Powers and duties generally.* The Board of Adjustment shall have the following powers and
802 duties:

803 (1) *Administrative review and interpretation:* ~~To make recommendations on hear and decide~~
804 ~~appeals where it is alleged there is an error in any order, requirement, decision or~~
805 ~~determination made by the Town Manager or DSD in the enforcement of the Town's zoning~~
806 ~~regulations.~~

807 (2) *Variances:* ~~To make recommendations upon appeal application in specific cases where a~~
808 ~~variance from the terms of the Town's zoning regulations is requested as will not be contrary~~
809 ~~to the public interest and where, owing to special conditions, a literal enforcement of the~~
810 ~~provision of such regulations would result in unnecessary hardship.~~

811 (3) *Administrative Adjustments:* ~~To make recommendations upon application for an~~
812 ~~administrative adjustment to the terms of the Town's zoning regulations.~~

813 [the deleted material below related to variance hearings was eliminated as duplicative (addressed
814 in Article IV, Division 10 Hearing Procedures and Requirements or in Article IV, Division 4
815 Adjustments to the Code). All material here and throughout Chapter 30 related to application
816 procedures and processing has been relocated to a single location in Article IV, Division 1 with
817 the exception of specialized procedures including appeals which is deleted below and was moved
818 to Appeals (Article IX)]

819 ~~(d) — Procedures for hearing appeals from administrative decisions.~~

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820 ~~(1) — The party aggrieved by a decision of the Administrative Officer shall make application on~~
821 ~~forms to be provided by the Town for a review and interpretation of the regulation or law giving~~
822 ~~rise to the grievance. Upon filing of such application, the applicant shall pay a fee based on the~~
823 ~~type of application, to cover the costs of application, preparation of necessary information,~~
824 ~~publication of notice, and similar in-house employee expenses, plus any additional costs~~
825 ~~incurred by the Town for third-party contractors (such as the Town Attorney, the Town Planner~~
826 ~~and/or the Town Engineer).~~

827 ~~Payment shall be made to the Development Services Director. Unless such application fee is~~
828 ~~paid and notice of application filled out in proper form, the Development Services Director shall~~
829 ~~not transmit the same to the Town Board of Adjustment for consideration. In the event the party~~
830 ~~aggrieved prevails on his challenge, the filing fee shall be refunded.~~

831 ~~(2) — The application for review and interpretation shall set forth the request with sufficient~~
832 ~~detail to reasonably apprise the Board of Adjustment of the nature, extent and scope of the~~
833 ~~grievance and the particular regulation or law which the applicant claims to have been~~
834 ~~misinterpreted or misapplied.~~

835 ~~(3) — The Town Manager shall examine such application to determine whether all pertinent~~
836 ~~information has been provided and, upon finding same to be in order, shall, within 14 working~~
837 ~~days, forward same to the Board of Adjustment for consideration at the next regular meeting of~~
838 ~~such Board.~~

839 ~~(4) — The Board of Adjustment shall notify the applicant of the date set for a hearing on the~~
840 ~~application, and such a notice shall provide a minimum of seven calendar days before the~~
841 ~~applicable meeting. At the time of the hearing on the application, the Board shall allow both the~~
842 ~~applicant and the affected Administrative Officer to be heard.~~

843 ~~(5) — After receiving all relevant materials and information, the Board of Adjustment shall~~
844 ~~recommend an interpretation of the pertinent regulation or law, as applied to the applicant-~~
845 ~~grievant, to the Town Commission, and such interpretation made by the Town Commission shall~~
846 ~~be deemed binding on the affected administrative official.~~

847 ~~(e) — *Procedures for hearing variance requests.*~~

848 ~~(1) — The owner or the representative of the owner designated by a writing specifically~~
849 ~~authorizing an application in the owner's name for a variance on an identified parcel of land shall~~
850 ~~make application on forms to be provided by the Town.~~

851 ~~(2) — The application for variance shall set forth the request with sufficient detail to reasonably~~
852 ~~apprise the Board of Adjustment of the nature, extent, scope and purpose of the proposed~~
853 ~~variance and shall contain a survey or sketch and description.~~

854 ~~(3) — The Town Manager shall examine such application to determine whether all pertinent~~
855 ~~information has been provided and upon finding same to be in order shall, within 14 working~~
856 ~~days, forward same to the Board of Adjustment for consideration at the next regular meeting of~~
857 ~~such Board.~~

858 ~~(4) — The Board of Adjustment shall notify the applicant of the date set for a hearing on the~~
859 ~~application, and such notices shall provide a minimum of seven calendar days before the~~
860 ~~applicable meeting.~~

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861 ~~(5) — At the time of the hearing on the application, the Board shall allow both proponents and~~
862 ~~opponents of the application to be heard.~~

863 ~~(6) — After receiving all relevant materials and information, the Board of Adjustment shall either~~
864 ~~recommend approval or denial of the application by vote of a simple majority of the quorum~~
865 ~~present and voting. The Board of Adjustment may make a recommendation for approval of an~~
866 ~~application, subject to certain conditions or restrictions.~~

867 **Secs. 30- 276—30-50. Reserved.**

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ARTICLE II. - DEVELOPMENT REVIEW
DIVISION 1. ARCHITECTURAL REVIEW REQUIREMENTS

868 **DIVISION 1. ARCHITECTURAL REVIEW REQUIREMENTS** [moved from 30-9; Purpose [of original
869 Article II, Development Review] moved to Sec 30-111]
870

871 **Sec. 30-51. Architectural review standards.**

872 (a) *Purpose and intent.* The purpose of this Section and the Town's Architectural Design Standards
873 (sometimes referred to as the "Town ADS") is to encourage the local adaptation of the Mid-Century
874 Modern architectural style as the preferred architectural style of the Town, in that such architectural
875 style is compatible with the essential character of the Town, supportive of efficient development, is
876 architecturally and visually appealing, and fosters a sense of place in the preservation of the
877 architectural and design characteristics of the Town's existing built environment.

878 (b) *Incorporation by reference of Town Architectural Design Standards.* The Town Architectural Design
879 Standards manual (also known as the Town ADS manual), as adopted by resolution of the Town
880 Commission and as may be amended from time to time, is hereby incorporated into this Article II-
881 Division 1. Architectural Review Requirements. All provisions of this Section shall be interpreted in
882 conformance with the Town ADS. In the event of conflict between the ADS and the Code, the Code
883 governs.

884 (c) *Applicability.*

885 (1) All development, including new construction, reconstruction, alterations and additions within the
886 B-1-A, B-1, RM-25, and RM-50 Town zoning districts shall comply with the architectural
887 standards and architectural review requirements provided by this Section and the Town ADS.

888 (2) Alterations and additions to existing buildings with design elements that are associated with the
889 Mid-Century Modern style of architecture shall conform to that architectural style.

890 (3) Alterations and additions to existing buildings with design elements that are not associated with
891 the Mid-Century Modern style of architecture shall conform to the architectural style of the
892 existing building.

893 (4) The Town ADS further defines the requirements of the Mid-Century Modern style and
894 alternative architectural styles, and the various elements of design that are encouraged and
895 discouraged in the Town.

896 (d) *Architectural styles.*

897 (1) *Mid-Century Modern.* The preferred architectural style of the Town shall be in accordance with
898 the Mid-Century Modern or similar harmonious architecture, except that any buildings the Town
899 Commission has designated as a "historical landmark" shall conform to the architecture of the
900 existing building.

901 (2) *Alternative architectural styles.*

902 a. While the Mid-Century Modern architectural style is the Town's preferred architectural
903 style, it is not intended to be the exclusive architectural style of the Town. Alternative
904 architectural styles and design concepts may be considered during the development
905 review process. However, it shall be the applicant's burden to show that the proposed
906 alternative architectural style and design concepts, to the maximum extent practical, are
907 compatible with the architectural style of adjacent existing or approved development on the
908 same or adjacent properties and street frontages.

909 b. Alternative architectural styles may be considered appropriate if it is found that:

910 1. The proposed alternative style is compatible with the architectural style of adjacent
911 existing or approved development on the same or adjacent property; and

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- 912 2. The architectural style of proposed development incorporates a scale, massing, and
913 sufficient number of the same or similar design elements (e.g., horizontal or vertical
914 building facade articulation, building facade articulation elements, facade materials,
915 roof design, use and design of balconies, window design, door design, use and design
916 of window or door shading devices, railing design, etc.) to create a clear and
917 affirmative relationship or transition between the architectural styles of existing
918 buildings or of approved development on the same or adjacent properties and street
919 frontages.
- 920 c. "Adjacent," when used herein, shall mean a lot or parcel of land that shares all or part of a
921 common lot line with another lot or parcel of land, or a lot or parcel of land that is separated
922 from another lot or parcel of land by a right-of-way or park.
- 923 (e) *Review of architectural design.*
- 924 (1) To ensure that any application for a development approval or permit, as required by this
925 Chapter, complies with architectural design review provisions, the Town Manager shall:
- 926 a. Designate staff with appropriate levels of education or expertise; and/or
927 b. Retain the services of a consultant with appropriate levels of education or expertise.
- 928 (2) If the Town Manager retains the services of a consultant to conduct the architectural design
929 review, then the Town shall recover the costs for such services in accordance with the
930 provisions of this Chapter.
- 931 (3) The primary purpose of the architectural design review shall be:
- 932 a. To determine whether or not the plans submitted ~~for the proposed development permit~~
933 comply with the architectural design features and materials typical of the Mid-Century
934 Modern architectural style. Alternatively, if the plans submitted ~~for the proposed~~
935 ~~development permit~~ are of an alternative architectural style that complies with the
936 requirements of the Town ADS, to determine whether those plans comply with the
937 architectural design features and materials typical of that style; and
- 938 b. To suggest to the applicant such changes as may be necessary to bring the plans into
939 conformity with the relevant architectural style.
- 940 (f) *Compliance with all other applicable code provisions.*
- 941 (1) The plans and specifications required to be submitted for the proposed development approval
942 or permit shall be designed in accordance with all other applicable code provisions.
- 943 (2) In the architectural design review ~~of all development permits~~, compliance with all applicable
944 building and life-safety codes shall prevail over any conflicting provisions of other applicable
945 codes or standards.
- 946 (g) *Application for architectural design review.* An application for architectural design review shall be
947 submitted to the ~~Development Services~~ Department on a form provided by the Town with such
948 exhibits as may be required by the Town, accompanied by a fee to be provided by resolution.
- 949 (h) *Approval of architectural design.* The Town shall determine whether the plans submitted ~~for a~~
950 ~~development permit~~ substantially conform to the provisions of this Section and the Town ADS in
951 preserving the traditional aesthetic treatment of the community, and shall include such findings as
952 part of the documentation required for development review and approval ~~as set forth in Article II,~~
953 ~~Development Review.~~

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- 954 (i) *Revisions to approved plans.* Modification to the approved plans shall be subject to the provisions for
955 modifications to ~~development-approved site~~ plans as provided in Section 30-123. Article II,
956 ~~Development Review.~~
- 957 (j) *Appeals.* The applicant may appeal the administrative determination regarding the compliance of
958 plans submitted for a development permit with the provisions of this Section and the Town ADS, as
959 follows:
- 960 (1) *Process for review and hearing of appeals.* Appeals shall be submitted to the Town Commission
961 on a form provided by the Town accompanied by a fee to be provided by resolution.
- 962 (2) *Timing and components of appeal.* All appeals shall be filed within 30 days of the administrative
963 determination of compliance or non-compliance. The appeal shall be based on the application
964 file and plans submitted up to the date of the determination being appealed, including the
965 Architectural Design Review Report and any relevant documents, and the applicant's appeal
966 form and the staff's response thereto.
- 967 (3) *Appeal hearings.* The Town Commission shall consider the appeal on the record at a regularly
968 scheduled public meeting held within 55 calendar days of the filing date of the appeal.
969 Arguments may be made to the Town Commission supporting or opposing the appeal, but no
970 additional written information or testimony, beyond a procedural history provided by staff, shall
971 be submitted at the hearing by the applicant or the Town staff/consultant.
- 972 (4) *Decisions on appeals.* The Town Commission may approve, approve with modifications or
973 conditions, or deny the application. Approval with modifications or conditions shall be subject to
974 further Town review of revised plans for compliance with the modifications or conditions
975 imposed by the Town Commission. For the purpose of appeal, the Town Commission's decision
976 shall be considered a final development order.

977 **Secs. 30- 52.—30-70. Reserved.** [30-52 Development Review Administration moved to Article I, Division
978 2; 3-53 Application requirements for development permits moved to Article IV and Article 1, Division 1; 30-
979 54 Development Review Procedures moved to Article IV; Vested Rights moved to Article IV, Division 7;
980 30-55 Dedication and conveyance moved to Article IV; 30-56 Condition Use Review moved to Article IV,
981 Division 3; Flexibility Rules moved to Article II, Division 3]

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DIVISION 2. DEVELOPMENT REVIEW REQUIREMENTS

982 ***DIVISION 2. DEVELOPMENT REVIEW REQUIREMENTS***

983 **Sec. 30-71. Development review requirements.**

- 984 (a) *Conformity with the Comprehensive Plan.* The development review criteria contained herein shall be
985 construed and applied to be consistent with the goals, objectives and policies of the Town's adopted
986 Comprehensive Plan.
- 987 (b) *Consistency with site development plan requirements.* Development shall be consistent with the site
988 development plan requirements of Article IV, Division 2. Site Plan Procedures and Requirements, of
989 this Chapter.
- 990 (c) *Review for adequacy of public services and facilities.* A development application for ~~development~~
991 ~~permit~~ in the Town of Lauderdale-By-The-Sea must comply with the following requirements:
- 992 (1) *Adequacy of regional road network.* The adequacy of the regional transportation network shall
993 be determined based upon conditions at the time the final plat or site plan application is
994 submitted in accordance with the following provisions:
- 995 a. *Level of service (LOS).* For the purpose of issuing development permits, the level of
996 service for roadways in the Town are as follows:

SR A1A:	Maintain and Improve
Commercial boulevard:	Maintain
Collector roadways:	LOS "C" - Average Annual Daily Traffic
	LOS "D" - Peak Season Daily Traffic
	LOS "D" - Peak Hour Daily Traffic
Local street:	LOS "C"

997

- 998 b. *Measurement of capacities.* The procedure for the initial measurement of highway
999 capacities is the Florida Department of Transportation Table of Generalized Daily Level of
1000 Service Maximum Volumes for use by local governments from January, 1989, to
1001 December, 1990. Alternately, highway capacity may also be determined through a detailed
1002 traffic engineering study of local conditions of traffic flow, field conditions and traffic
1003 operations. Such studies shall be technically developed and comply with proper and
1004 recognized traffic engineering procedures. All studies shall be evaluated by the Town,
1005 and/or other parties as the Town designates, for acceptability. In instances where the Town
1006 finds that the study does not comply with proper and recognized traffic engineering
1007 procedures, the study results will not be accepted.

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- 1008 c. *Development subject to adequacy determination.*
- 1009 1. For plats and replats, site plans or building permits where the property is unplatted or
1010 was platted, with plat approval received before March 20, 1979, all development of
1011 previously vacant land except that specified in Subsection (c) below, shall be subject
1012 to adequacy determination.
- 1013 2. For plats or replats, site plans or building permits where the property is unplatted or
1014 was platted, with plat approval received before March 20, 1989, all development of
1015 previously improved lands shall be subject to an adequacy determination for the
1016 additional trips to be generated by the development specified in the proposed note on
1017 the plat and the trips generated by any existing development. Existing development
1018 shall be construed to include previous development demolished no earlier than 18
1019 months previous to the date the final plat is submitted, or the application for a site plan
1020 or building permit approval is submitted.
- 1021 3. For a replat, or an amendment to a note on a plat, or a requirement to place a note on
1022 a plat, where property was platted after March 20, 1979, an adequacy determination
1023 shall be required for those additional trips that equal the difference between the
1024 previous plat and the replat; or the previous note and the proposed amendment to the
1025 note; or the development approved by the Town Commission at the time of plat
1026 approval and the proposed note to be placed on the plat.
- 1027 d. Traffic study required. All development applications, except for development applications
1028 where the traffic generation of new trips is less than 750 trips per day, shall submit a study
1029 identifying the traffic impact of the proposed development. The Town may also require
1030 traffic impact studies from development applications with less than 750 new trips per day in
1031 instances where existing traffic conditions warrant specific study.
- 1032 The traffic impact study shall identify existing traffic volumes and existing level of service
1033 for average daily, peak hour and peak season daily conditions. The study area shall
1034 include the entire Town. The study shall identify the project's daily and peak hour trip
1035 generation, trip distribution and traffic assignment. An analysis of peak hour turning
1036 movements at project entrances shall be provided. Traffic conditions at project build-out
1037 shall be identified including existing traffic, background traffic and project traffic. The impact
1038 of the project traffic on the operating condition of SR A1A and Commercial Boulevard shall
1039 be identified. The impact of the project on the level of service of other Town collectors shall
1040 also be assessed. An evaluation of the need for traffic improvements at project entrances
1041 and at other roadway locations shall be provided.
- 1042 e. Required determination.
- 1043 1. Before a development permit is approved, the following findings shall be made:
- 1044 i. The proposed development will not lower the level of service of arterials and
1045 collectors below the adopted levels. This includes SR A1A and Commercial
1046 Boulevard below LOS of the existing operating condition and Town collectors
1047 below LOS "C" for annual average daily traffic (AADT) and LOS "D" for peak
1048 season daily (PADT) and peak hour (PKHR).
- 1049 ii. In instances where the proposed development will lower the level of service of
1050 Town arterials and collectors below the adopted LOS, the necessary
1051 improvements to provide the adopted LOS are under construction at the time a
1052 permit is issued, or are subject of an executed contract with a road contractor for
1053 immediate construction, or the necessary improvements are provided in an

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- 1054 enforceable development agreement and will be available prior to certificates of
1055 occupancy, or the necessary improvements are included in the Town, Broward
1056 County or Florida Department of Transportation annual work program or capital
1057 improvement program.
- 1058 iii. In instances where the existing level of service of Town arterials and collectors
1059 are below the adopted LOS, the necessary improvements to provide adopted
1060 LOS are under construction at the time a permit is issued, or are the subject of
1061 an executed contract with a road contractor for immediate construction, or the
1062 necessary improvements are provided in an enforceable development agreement
1063 and will be available prior to certificates of occupancy, or the necessary
1064 improvements are included in the Town, Broward County or Florida Department
1065 of Transportation annual work program or capital improvement program or there
1066 is an approved action plan to accommodate the traffic impact of the
1067 development.
- 1068 iv. The development is found to have vested rights.
- 1069 2. Dedication of right-of-way for Town arterials and collectors. The trafficways on the
1070 Broward County Trafficways Plan and trafficways as delineated in the Town's traffic
1071 circulation element of the Comprehensive Plan, which are located within the area
1072 proposed to be developed, shall be conveyed to the public by dedication on the face
1073 of the plat, deed or, if acceptable to the Town, by grant or easement.
- 1074 (2) *Access to trafficways.* A final plat of lands which abut or contain an existing or proposed
1075 trafficway shall be designed to facilitate the safe and efficient movement of vehicles between
1076 the trafficway and the proposed development and shall comply with the following standards and
1077 requirements:
- 1078 a. Street capacities shall be determined by the standards established by the Highway
1079 Capacity Manual prepared by the Transportation Research Board of the National Research
1080 Council, Washington, D.C.
- 1081 b. The geometric design of Town arterials shall conform to the Manual of Uniform Minimum
1082 Standards for Design, Construction and Maintenance for Streets and Highways, prepared
1083 by the Florida Department of Transportation.
- 1084 c. Trafficways shall conform to the criteria and characteristics established by and shown on
1085 the Broward County Trafficways Plan.
- 1086 d. At the intersection of Town arterials and collector, a chord shall be drawn at the corner
1087 between the intersecting rights-of-way. This additional area shall be dedicated or provided
1088 by easement for traffic control equipment. At the intersection of arterials the chord shall be
1089 based on a 30-foot radius, at the intersection of collectors the chord shall be based on a
1090 30-foot radius.
- 1091 e. A nonvehicular ingress and egress line shall be delineated along the trafficways corridor
1092 except at those points of access not in conflict with the standards provided within this
1093 Article.
- 1094 f. Left-turn or right-turn lanes, or both, and bus pullout bays may be required dependent on
1095 the traffic study submitted in Subsection 30-71(c)(1)d ~~30-424(b)~~.
- 1096 g. Sidewalks adjacent to the development may be required pursuant to Subsection 30-42430-
1097 122(a)(13).

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- 1098 h. Ingress and egress easements may be required in order to provide joint use driveways for
1099 adjacent properties, pursuant to Subsection ~~30-124~~30-122(b)(9).
- 1100 i. Additional right-of-way shall be conveyed to the public by dedication on the face of the plat,
1101 by deed, or, if acceptable to the Town, by grant of easement which is necessary for the
1102 ultimate construction of turn lanes, bicycle facilities, sidewalks, bus pullout bays, bus
1103 shelters, or roadway drainage facilities as required pursuant to ~~30-124~~Section 30-122.
- 1104 (3) *Adequacy of water management.*
- 1105 a. The proposed development shall be designed to provide adequate areas and easements
1106 for the construction and maintenance of a water management system to serve the
1107 proposed development and adjacent public rights-of-way in a manner which conforms to
1108 sound engineering standards and principles, and which will be provided in accordance with
1109 applicable provisions of the Town's Code of Ordinances and the local agency having water
1110 management review and permitting authority over the area.
- 1111 b. The development order shall require that the applicant for a building permit demonstrate
1112 prior to the issuance of the building permit within the development that the following levels
1113 of service standards, where applicable, will be met prior to the issuance of a certificate of
1114 occupancy:
- 1115 1. Buildings. The lowest floor elevation for buildings shall be no lower than the elevation
1116 for the respective area depicted on the "100-Year Flood Criteria Map."
- 1117 2. Off-site discharge. Off-site discharge is not to exceed the inflow limit of South Florida
1118 Water Management District (SFWMD) primary receiving canal or the local
1119 conveyance system.
- 1120 3. Storm sewers. The design frequency applicable to storm sewers is the three-year
1121 rainfall intensity of the State Department of Transportation Zone 10 rainfall curves.
- 1122 4. Floodplain routing. Calculated flood elevations based on the ten-year and 100-year
1123 return frequency rainfall of three-day duration shall not exceed the corresponding
1124 elevations of the ten-year "Flood Criteria Map" and the "100-Year Flood Elevation
1125 Map."
- 1126 5. Antecedent water level. The antecedent water level is the higher elevation of either
1127 the control elevation or the elevation depicted on the map "Average Wet Season
1128 Water Levels."
- 1129 6. On-site storage. Minimum capacity above antecedent water level and below floodplain
1130 routing elevations shall be design rainfall volume minus off-site discharge occurring
1131 during design rainfall.
- 1132 7. Best management practices (BMP). Prior to discharge of surface or ground water,
1133 BMPs will be used to reduce pollutant discharge.
- 1134 (4) *Adequacy of potable water service.*
- 1135 a. Potable water service must be available prior to a certificate of occupancy to provide for
1136 the needs of the proposed development at the level of service of 290 gallons per year-
1137 round-resident person per day. The proposed development shall be designed to provide
1138 adequate areas and easements which may be necessary for the installation and
1139 maintenance of a potable water distribution system which will meet all applicable building,
1140 health, and environmental regulations, including Chapter 17-22, Florida Administrative
1141 Code.

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- 1142 b. A finding that potable water service is available at the adopted level of service must be
1143 based upon a demonstration that an existing water treatment facility has sufficient plant
1144 and network capacity to provide for the potable water needs of the application and for other
1145 developments in the service area which are occupied, available for occupancy, for which
1146 building permits are in effect or for which potable water treatment capacity has been
1147 reserved. If potable water service is not available, but will be made available, any
1148 development order shall be conditioned on such availability. A finding that potable water
1149 service will be made available at the adopted level of service must be based upon a
1150 demonstration that there is a fiscally feasible plan to construct or expand a water treatment
1151 facility which will have sufficient plant and network capacity to provide for the potable water
1152 needs of the development proposed by the application prior to the issuance of certificates
1153 of occupancy for that development, and for other developments in the service area, which
1154 are occupied, available for occupancy, for which building permits are in effect or for which
1155 potable water treatment capacity has been reserved.
- 1156 c. An agreement will be required between the Town and the developer prior to the issuance
1157 of a building permit to provide for the expansion of water treatment facilities necessary to
1158 service the proposed development. Town or County Commission approval of an
1159 application for plat approval shall not be construed to effect a reservation of potable water
1160 plant or network capacity, or a commitment to provide service.
- 1161 (5) *Adequacy of wastewater treatment and disposal services.*
- 1162 a. Wastewater treatment and disposal services must be available prior to occupancy to
1163 provide for the needs of the proposed development at the adopted level of service of 225
1164 gallons per year-round-resident per day. The proposed development shall be designed to
1165 provide adequate areas and easements which may be necessary for the installation and
1166 maintenance of a wastewater disposal system which will meet all applicable health and
1167 environmental regulations.
- 1168 b. A finding that wastewater treatment and disposal services are available at the adopted
1169 level of service must be based upon a demonstration that an existing wastewater treatment
1170 and disposal facility has sufficient plant and network capacity to provide for the wastewater
1171 treatment and disposal needs of the development proposed by the application and for
1172 other developments in the service area which are occupied, available for occupancy, for
1173 which building permits are in effect or for which wastewater treatment or disposal capacity
1174 has been reserved. If existing capacity is unavailable, conditional approval may be granted
1175 if it is shown that there is a fiscally feasible plan to construct or expand a wastewater
1176 treatment and disposal facility which will have sufficient plant and network capacity to
1177 provide for the treatment and disposal needs of the development proposed by the
1178 application prior to the issuance of certificates of occupancy for that development, and for
1179 other developments in the service area which are occupied, available for occupancy, for
1180 which building permits are in effect or for which wastewater treatment or disposal capacity
1181 has been reserved.
- 1182 c. An agreement will be required between the Town and the developer prior to the issuance
1183 of a building permit for the expansion of water/wastewater treatment and disposal facilities
1184 necessary to service the proposed development.
- 1185 d. Town or County Commission approval of an application for plat approval shall not be
1186 construed to effect a reservation of wastewater capacity or commitment to provide service.
- 1187 (6) *Adequacy of solid waste disposal sites or facilities.*

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- 1188 a. Solid waste disposal sites or facilities shall be available prior to occupancy to provide for
1189 the needs of the proposed development at the level of service of seven and one-tenth (7.1)
1190 pounds per year-round-resident per day.
- 1191 b. A finding that solid waste disposal sites or facilities are available must be based upon a
1192 demonstration that existing solid waste disposal sites or facilities have sufficient capacity to
1193 provide for the solid waste disposal needs of the development proposed by the application
1194 and for other developments in the service area which are occupied, available for
1195 occupancy, for which building permits are in effect or for which solid waste disposal
1196 capacity has been reserved. If existing capacity is unavailable, conditional approval may be
1197 granted if it is shown that there is an economically and fiscally feasible plan to expand solid
1198 waste disposal site so that sufficient capacity will be available for the solid waste disposal
1199 of the development proposed by the application and for other developments in the service
1200 area which are occupied, available for occupancy, for which building permits are in effect
1201 or for which solid waste disposal capacity has been reserved.
- 1202 (7) *Adequacy of school facilities.* Pursuant to the Amended Interlocal Agreement for Public School
1203 Facility Planning (ILA), the applicant, in collaboration with the Town, Broward County and the
1204 School Board of Broward County, shall ensure that public school facilities will be available for
1205 current and future students consistent with available financial resources and adopted level of
1206 service standards and that such facilities are available concurrent with the impact of proposed
1207 residential development.
- 1208 (8) *Adequacy of solid waste collection service.* Solid waste collection service will be available prior
1209 to occupancy to provide for the needs of the proposed development.
- 1210 (9) *Adequacy of fire protection service.*
- 1211 a. Fire protection service will be adequate to protect people and property in the proposed
1212 development.
- 1213 b. A finding that adequate fire protection service is available and shall be based upon a
1214 determination that all water supply facilities either existing or proposed to be constructed
1215 by the developer shall be adequate to meet the fire protection needs of the proposed
1216 development.
- 1217 (10) *Adequacy of police protection service.* Police protection service will be adequate to protect
1218 people and property in the proposed development.
- 1219 (11) *Adequacy of local parks and recreation facilities.* Land suitable for residential development
1220 pursuant to the applicable Land Development Regulations shall be designed to provide for
1221 the park, open space and recreational needs of the future residents of the developed area.
- 1222 (d) *Review for compliance with environmental standards and regulations.*
- 1223 (1) An application for a development permit shall be reviewed pursuant to applicable federal, state,
1224 regional and local environmental regulations, including any applicable Broward County
1225 environmental standards and requirements, and any other environmental standards as may be
1226 applicable and necessary to determine that the proposed development has adequately
1227 addressed:
- 1228 a. Hazardous material treatment and disposal services;
- 1229 b. Impact on air quality, smoke, emissions of particulate matter;
- 1230 c. Impact on wellfield protection; and
- 1231 d. Impact on environmentally sensitive lands.

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- 1232 (2) Violation of environmental regulations. An application for a development permit may be denied
1233 or approved with appropriate conditions where the property is subject to a notice of violation of
1234 an environmental regulation by a County, State or Federal agency, which violation the Town
1235 Commission determines makes all or part of the land unsuitable for development.
- 1236 (e) *Consideration of lands containing historic or archaeologically significant artifacts or relics.*
- 1237 (1) If the proposed site plan includes any land designated as having historic or archaeological
1238 significance in the Town's Comprehensive Plan or the Broward County Land Use Plan Map
1239 Series or is listed in the Florida Master Site File, then site plan approval shall include provisions
1240 for the management of the historic or archaeological site based on the level of significance
1241 attributed to such site.
- 1242 (2) If the site is evaluated as eligible to meet criteria for National Register listing, then the provisions
1243 required by Subsection (1) shall be based upon an archaeological or historic report prepared by
1244 a professional archaeologist or historic preservationist and submitted by the applicant. The
1245 report shall include the history of the site, field survey methods, an assessment of the
1246 archaeological significance of the site and proposed plan for mitigating impacts.
- 1247 (3) The DSDRC will review the mitigation plan submitted by the applicant, and provide a
1248 recommendation to the Town Commission. The Town Commission will consider the proposed
1249 mitigation plan and the DSDRC recommendation in approving a final site plan for the
1250 archaeological or historic site.
- 1251 (f) *Protection of air navigation.* If the plat or site plan includes property subject to notice requirements of
1252 Federal Aviation Regulations (FAR) Part 77, Subpart B, development within the plat or site plan must
1253 receive an FAA determination that it does not constitute a hazard to air navigation or require
1254 operational modifications to the airport to avoid such a hazard. The note on the plat or site plan shall
1255 specify this restriction.
- 1256 (g) *Crime Prevention Through Environmental Design (CPTED) Review Requirements.* An application for
1257 development review shall demonstrate compliance with the following Crime Prevention Through
1258 Environmental Design (CPTED) principles so as to minimize the risk to public safety and reduce the
1259 potential for criminal activity:
- 1260 (1) Natural surveillance—Natural surveillance that promotes design features that maximize visibility
1261 of people, parking areas, building entrances, and vulnerable interior spaces thereby reducing
1262 crime opportunity by increasing offenders' risk of being observed.. Such design features may
1263 include but not be limited to the placement of doors and windows that look out on to streets and
1264 parking areas, and designs that encourage pedestrians and on-lookers to use sidewalks, paths,
1265 and front yard areas. Natural surveillance is also facilitated by adequate sightlines and lighting.
- 1266 (2) Territorial reinforcement—Physical design that helps to create or extend a sphere of influence,
1267 which increases offenders' sense of risk and legitimate users' sense of territorial control.
1268 Physical features that clearly define property lines and distinguish private spaces from public
1269 spaces may include, but not be limited to the use of such elements as landscape plantings,
1270 pavement designs, gateway treatments, among other devices.
- 1271 (3) Natural access control—Physical strategies that decrease crime opportunity by denying or
1272 delaying access to crime targets and creating a perception of increased effort and risk in
1273 offenders. Streets, sidewalks, building entrances, and neighborhood gateways should be
1274 utilized to clearly indicate public routes and discourage access to private or off-limit areas with
1275 structural elements. Target hardening may also be achieved by the use of physical features that
1276 prohibit or delay entry or access, including, for example, window locks, door dead bolts and
1277 metal door frames, bollards, gates, and planters.

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1278 (4) The use of "dead space" for activities and maintenance of the built environment—as may be
1279 required by the Town in order to demonstrate compliance with CPTED principals.

1280 **Secs. 30- 72—30- 99. Reserved** [30-72 Presumptions, limitations, agreements and security for
1281 development review requirements moved to Article IV Division 5.]

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DIVISION 3. FLEXIBILITY RULES

1282 **DIVISION 3. - FLEXIBILITY RULES**

1283 **Sec. 30 - 100. Flexibility rules.** [moved from Sec. 30-56 (g); 30-100 was previously reserved]

1284 (a) Flexibility rules allow the Town to revise and rearrange land uses within a flexibility zone and allow
1285 the development of residential dwelling units on properties designated for commercial land use in the
1286 Broward County Land Use Plan, without requiring an amendment to that designation.

1287 (1) *Definitions.*

1288 i. *Flexibility zones:* Flexibility zones are fixed geographic areas within the Town, designated
1289 on the Broward County Land Use Plan, which provide limits on the number of additional
1290 dwelling units and additional commercial acreage which may be permitted by the Town's
1291 comprehensive plan.

1292 ii. *Flexibility units:* Flexibility units are the total number of additional residential dwelling units
1293 permitted by the Broward County Land Use Plan above the total number of dwelling units
1294 allowed within the same flexibility zone by the Town's comprehensive plan.

1295 (2) *Determination of available flexibility units.* The Town Manager or designee shall maintain a log
1296 of the number of available flexibility units in each flexibility zone, the number of flexibility units
1297 assigned to parcels within each zone and within the Town, and the reason for assigning
1298 flexibility units to a parcel.

1299 (3) *Assignment of flexibility units.* If a sufficient number of flexibility units are available, the Town
1300 may allocate flexibility units for mixed use development in the B-1 zoning district, as provided in
1301 Section 30-271(eg), Mixed use development, provided that the County's flexibility rules and
1302 regulations are met and all other applicable requirements of Chapter 30 of the Code are met.

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- 1303 **ARTICLE III. RESERVED.** [Platting (Secs. 30-101 – 30-105) was moved in its entirety from Article III to
1304 Article IV, Division 5; 30-106 – 30-120 were previously reserved]
1305
1306 Secs. 30- 10~~16~~—30- 11~~20~~. Reserved.

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1307 **DIVISION 1. GENERALLY**

1308

1309 **Sec. 30-111. Purpose.** ~~[Moved from Sec. 30-51; 30-111 was previously reserved]~~

1310 The purpose of this Article is to establish requirements and procedures for the review of issuance of
1311 all development applications permits for the development of land within the Town of Lauderdale-By-The-
1312 Sea, Florida, including but not limited to applications for site plan, conditional use, variance,
1313 administrative adjustment, rezoning, comprehensive plan amendment and plat approval.

1314 **Sec. 30-112. Application and Requirement for Development permits** application and requirements.
1315 ~~[Moved from 30-53; 30-112 was previously reserved]~~

1316 ~~No application for a development permit for the development of land within the Town shall be reviewed or~~
1317 ~~development permit issued, except in compliance with the requirements and procedures set forth in this~~
1318 ~~chapter.~~

1319 (a) ~~Major review: Applications for final plat approval and applications for rezoning and development of~~
1320 ~~regional impact (DRI) development orders shall be subject to major review. An application for a~~
1321 ~~development permit requiring major review shall comply with the following:~~

1322 (1) ~~The applicable provisions of this Chapter.~~

1323 (2) ~~The applicable provisions of the Town's zoning ordinance ULDR as amended from time to time.~~

1324 (3) ~~The applicable provisions of the Town's adopted Comprehensive Plan and certified future land~~
1325 ~~use element as amended from time to time.~~

1326 ~~(b) Minor review:~~

1327 ~~Any application for a development permit not requiring Town Commission or Planning and Zoning~~
1328 ~~Board approval shall be subject to minor review. All applications for development permits requiring minor~~
1329 ~~review shall comply with the following:~~

1330 (1) ~~The applicable provisions of articles II, IV and VI of this chapter.~~

1331 (2) ~~The applicable provisions of the zoning ordinance, as amended from time to time, and the~~
1332 ~~applicable provisions of the South Florida Building Code.~~

1333 (3) ~~Applications for a development permit subject to minor review that do not require review by the~~
1334 ~~Development Review Committee, pursuant to subsection 30-54(d), shall comply with all~~
1335 ~~applicable requirements of this chapter.~~

1336 (4) ~~The applicable provisions of the Town's adopted Comprehensive Plan and certified future land~~
1337 ~~use element.~~

1338 (b) Development order required before development permit. Any application for a development or
1339 zoning permit for a structure or use which requires site plan, conditional use, rezoning, land use plan
1340 amendment, variance, administrative adjustment and/or plat approval shall require an effective

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1341 development order to be granted by the ~~Development Review Official (DRO) of the Town~~
1342 ~~Commission-Town~~ prior to issuance of the development or zoning permit. [moved from 30-54]

1343 (c) Burden of proof. The applicant shall have the burden of showing that all standards, requirements,
1344 and criteria of the ULDR, the Town Code and the Comprehensive Plan have been met.

1345 (d) Time frames. The timeframes in this Division may be waived or extended as provided herein, or
1346 upon agreement of the applicant.

1347 (e) Exempt development:

1348 Notwithstanding any other provision of this Chapter, the following activities shall not require
1349 compliance with this Chapter:

1350 (1) Construction of bus stop shelters.

1351 (2) Sculptures, fountains, and other landscaping improvements unless within or abutting the right-
1352 of-way of SR A1A or Commercial Boulevard.

1353 (3) Diminution in size of a structure.

1354 (4) Demolition of a structure, provided that natural vegetation and natural resource areas are not
1355 disturbed.

1356 (5) Construction of municipal buildings or structures.

1357 (f) Application. [Language based on, but revised and enhanced from, original Sections 30-6 (c)(3) and
1358 30-7(e) and 30-56(b). The application requirements were relocated to this section, but the entire
1359 process was clarified and enhanced with additional language. Because of the specific and detailed
1360 requirements for preliminary site plans, site plans and plats, additional submittal requirements are
1361 included in those specific sections. Double underlined is a new concept in this application section;
1362 (h) was revised and relocated from 30-6 (c)(4)].

1363 (1) A development application shall be commenced by the filing of a complete application on a form
1364 approved by the Town.

1365 (2) The application shall be signed by the owner(s) of the property who shall verify that all
1366 information provided is true and correct.

1367 (3) The application shall be considered the application of the property owner(s), notwithstanding the
1368 interest of any occupant of the property.

1369 (4) The application shall be filed with the Department, and shall include the following:

1370 a. An administrative processing fee as established by the Town Commission by resolution.
1371 However, in the case of a variance application, no fee will be required in instances where
1372 a change in law or regulation is made applicable to an existing, conforming structure, and
1373 an applicant seeks a variance from the new law or requirement.

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- 1374 b. A sealed survey, dated no more than 12 months prior to the date of application, of the
1375 entire property clearly identifying and indicating distances between all structures, property
1376 lines, setbacks, easements and adjacent rights-of-ways.
- 1377 c. Site plan or sketch.
- 1378 1. Except for comprehensive plan amendment, rezoning, Class 1 administrative
1379 adjustment, single-family or duplex applications, a site plan shall be under seal of a
1380 Florida-licensed architect or engineer. However, if the circumstances of the
1381 application which is exempt from this requirement require additional specification, the
1382 DSD may require a site plan and/or survey.
- 1383 2. For variance applications, the site plan shall clearly depict the proposed
1384 improvements which necessitate the variance in relation to the above delineated
1385 elements of survey.
- 1386 3. If, for other than a site plan application, no previously approved site plan exists, the
1387 Applicant will be required to submit an as-built site plan that includes, but is not
1388 limited to the following information:
- 1389 (i) Legal description;
- 1390 (ii) Square footage of the lot;
- 1391 (iii) Required parking spaces;
- 1392 (iv) Existing parking with the dimensions of the existing spaces and drive aisles;
- 1393 (v) Computation of pervious, impervious, and paved surface, in square footage and
1394 percentage;
- 1395 (vi) Building locations, dimensions, setbacks and square footage;
- 1396 (vii) Drainage;
- 1397 (viii) If residential, number of dwelling units and density;
- 1398 (ix) If restaurant, designated customer service area square footage; and
- 1399 (x) The location of the coastal construction control line (CCCL), if applicable.
- 1400 4. For Level 1 Administrative Adjustments and single family or duplex applications, a
1401 sketch, drawn to scale shall be required, which depicts the existing or proposed
1402 improvement(s) which necessitates the application.
- 1403 d. Any other application specific requirements as required by this Chapter.
- 1404 (g) Concurrent applications. [based on 30-56(a)]
- 1405 (1) An application requiring multiple development approvals must submit individual applications
1406 and all applicable fees for each individual application.

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1407 (2) At the discretion of the DSD, applications for various development approvals may be processed
1408 concurrently to the extent feasible.

1409 (h) ~~Reapplication permitted after specified lapse of time. The Town Planning and Zoning Board(s) shall~~
1410 ~~not entertain an application on any matter previously considered and upon which recommendations~~
1411 ~~were made by the Board until two years have expired from the date of the entry of the previous~~
1412 ~~recommendations by said Town Planning and Zoning Board; provided, however, that the applicant~~
1413 ~~may make application after expiration of six months from the date of entry of the previous~~
1414 ~~recommendations should there be a substantial change in circumstances, specifically alleged in said~~
1415 ~~application, which change in circumstances affects the existing Town planning and zoning or an~~
1416 ~~applicant is applying for reapproval of an approved, but expired development order.~~

1417 **Sec. 30-113. Development application review procedures. [relocated from 30-54]**

1418 ~~Any application for a development permit required or authorized under this Code of Ordinances shall~~
1419 ~~require an effective development order to be granted by the Development Review Official (DRO) or the~~
1420 ~~Town Commission prior to issuance of the development permit. [The substance of the previously deleted~~
1421 ~~sentence was relocated to Section 30-112(b)]~~ The DRO Department shall be the central intake point for
1422 filing all development approval applications and supporting documents ~~for development permits~~. Except
1423 as otherwise provided in this Chapter, the following procedures shall govern the review of applications for
1424 development ~~permits~~ subsequent to filing.

1425 (a) Pre-application meeting required. A pre-application meeting with the Department staff is required
1426 prior to submitting a development application as required by this Chapter. At the meeting, the
1427 applicant will describe and present their project in the conceptual design stage.

1428 (b) *Completeness of application.*

1429 (1) ~~The DRO Department shall review the application for development permit to determine if the~~
1430 ~~information provided is complete its completeness. Within five working days after receipt, the~~
1431 ~~DRO~~The Department shall either accept the application if it is complete, or reject the application
1432 if it is incomplete and forward to the applicant a notice of incompleteness specifying the data
1433 missing from the application received. ~~The determination of completeness in this subsection~~
1434 ~~does not include the submission requirement set forth in subsection 30-104(a).~~

1435 (2) If a notice of incompleteness is not sent, the application shall be deemed accepted for purposes
1436 of beginning the time limits of this Article on the ~~sixth (6th) working day~~ thirtieth (30) day after
1437 the filing of the application.

1438 (3) If a notice of incompleteness is sent, the applicant may resubmit the application with the
1439 additional ~~data~~ information required, in which event the DRO Department shall review the
1440 resubmitted application in the manner provided in this Subsection for the original application.

1441 (4) If an applicant fails to provide the additional information as requested by the Department within
1442 sixty (60) days of the request for additional information, or fails to respond to the Department
1443 with a time period, not to exceed sixty (60) days, as to when the additional information will be
1444 submitted, the Town may deem the application to be withdrawn by the applicant.
1445

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1446 (bc) Application review - Generally. The Town Manager shall determine if the application is a Level 1
1447 procedure or amendment or a Level 2 procedure or amendment. In deciding whether an application
1448 is a Level 1 or Level 2 procedure or amendment, the Town Manager shall consider the
1449 requirements of this Chapter as referenced in the Development Review Chart below. Applications
1450 shall be processed according to the Development Review Chart and the procedures of this
1451 Chapter. In the event of conflict, the provisions of the text prevail over the chart. [Code Section in
1452 the chart below will be filled in after initial review – Code Sections direct the user to the detailed
1453 Level 1 and Level 2 criteria for each type of application]

1454

Development Review Chart								
	Code reference	Staff Review	Board of Adjustment	Planning and Zoning Board	Final Decision Making Authority			Notice
					Town Manager	Town Commission One Hearing Required	Town Commission Two Hearings required	
Appeal of Administrative Decision	30-531	X	X			X		Yes
Site Plan	30-119	X		X		X		Yes
Site Plan Level 1 Modification	30-123	X			X			n/a
Site Plan Level 2 Modification	30-123	X		X		X		Yes
Conditional Use	30-126	X				X		Yes
Conditional Use Level 1 Modification	30-126(e)	X			X			n/a
Conditional Use Level 2 Modification	30-126(e)	X		X		X		Yes
Administrative Adjustment Level 1	30-128	X	X		X			Yes
Administrative Adjustment Level 2	30-128	X	X			X		Yes
Variance	30-127	X	X			X		Yes
Preliminary Plat	30-129	X			X			
Final Plat	30-132	X		X		X		Yes
Architectural Review	30-51	X			X			n/a

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Development Review Chart								
	Code reference	Staff Review	Board of Adjustment	Planning and Zoning Board	Final Decision Making Authority			Notice
					Town Manager	Town Commission One Hearing Required	Town Commission Two Hearings required	
Zoning Relief	30-138	X				X		Yes
Rezoning	30-135	X		X		X	X	Yes
Comprehensive Plan Amendment	Florida Statutes	X		X		X	X	Yes

1455

1456 (1) Agency Review. Upon acceptance of an application for a development application permit, the
 1457 DRO DSD will identify Town departments, Town consultants, County departments and affected
 1458 agencies and/or parties which should participate in the development review. The Department
 1459 DRO shall forward a copy of the application and accompanying material to each identified party
 1460 within fifteen (15) days of receipt of a complete application.

1461 a. Departments, agencies and parties considered for agency review may include:

1462 1. Town departments and/or consultants: ~~Police, Utilities, Building Official, Consultant~~
 1463 ~~Engineer and Consultant Planner;~~

1464 2. Broward County departments and agencies ~~Engineering Division, Traffic Engineering~~
 1465 ~~Division, Office of Planning, Planning Council, Mass Transit Division, Utilities Division,~~
 1466 ~~Water Resources Management Division, Broward County School Board, Soil~~
 1467 ~~Conservation Service, Building and Zoning Enforcement Division, Broward County~~
 1468 ~~Public Health Unit, Broward County Sheriff's Office, Fire Marshal's Office,~~
 1469 ~~Environmental Quality Control Board, and Soil Conservation Service;~~

1470 3. Regional agencies ~~State, regional and Federal departments and agencies: Florida~~
 1471 ~~Department of Transportation, Florida Department of Natural Resources, Florida~~
 1472 ~~Department of Community Affairs, Florida Department of Environmental Regulation,~~
 1473 ~~State Forestry Division, South Florida Water Management District, South Florida~~
 1474 ~~Regional Planning Council, Florida Inland Navigation District, and Army Corps of~~
 1475 ~~Engineers.;~~

1476 4. Utility providers and adjacent cities ~~Florida Power and Light Company, Bell South~~
 1477 ~~Company, City of Fort Lauderdale, Village of Sea Ranch Lakes, and Broward County;~~
 1478 and,

1479 5. State and Federal departments and agencies.

1480 b. In the event this Code of Ordinances requires that a development permit not be issued until
 1481 acted upon by some County Board or agency other than the Town Commission, then the
 1482 DRO shall forward the application for development permit to such County Board or agency
 1483 for appropriate action prior to the issuance of a development order pursuant to subsections
 1484 24.1.4(h) and 24.1.4(k) of this article or the notification to an applicant that an application is

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1485 ~~ready to be presented to the Town Commission pursuant to subsection 24.1.4(i) of this~~
1486 ~~article. The time limits of this Section may be extended to accommodate such additional~~
1487 ~~board or agency action reviews and any related actions required by the agencies identified~~
1488 ~~in Subsections 1, 2, 3 and 4 above. In no event shall the processing of an application be~~
1489 ~~delayed for a state or federal review. [text deleted as duplicative. Last sentence added to~~
1490 ~~comply with new state law]~~

1491 c. ~~Reviews or approvals granted by the Town may be conditioned upon final processing and~~
1492 ~~permitting by applicable state or federal departments or agencies. [added as a result of the~~
1493 ~~revisions in b. above to comply with new state law]~~

1494 (2) ~~*Request for written comments Review Responsibilities.* A tabular form summarizing the~~
1495 ~~development application, review input desired and supporting information will be forwarded to~~
1496 ~~each affected agency or department. Each reviewing agency will be requested to complete the~~
1497 ~~tabular form and add any additional written comments and recommendations regarding the~~
1498 ~~application for development permit. Each review agency will be requested to return the tabular~~
1499 ~~form to the DRO within 15 working days. The development application and supporting~~
1500 ~~information will be forwarded to each identified party requesting that written comments and~~
1501 ~~recommendations regarding the application be provided to the Department within fifteen (15)~~
1502 ~~days of receipt of the application information.~~

1503 (3) ~~*Waiver of agency review.* The DRO DSD may waive agency review, in whole or in part, under~~
1504 ~~this Section upon a determination that such a review is not required, information previously~~
1505 ~~provided to the DRO Department is applicable to the subject development application, agency~~
1506 ~~comments are not received by the established deadline or a similar application review has~~
1507 ~~already been made regarding the same land and no change in circumstances has occurred~~
1508 ~~which necessitates further review.~~

1509 (d) ~~*Committee review.* The DRO will appoint a Development Review Committee (DRC) which may~~
1510 ~~consist of the following type individuals: the Public Works Director; the Town Planner and the Town~~
1511 ~~Manager. Additional or temporary appointments can be made by the DRO as required. Applications for~~
1512 ~~development permits shall be reviewed by the Development Review Committee either in a formal meeting~~
1513 ~~or by written review within 25 calendar days of acceptance of the application; provided however, if the~~
1514 ~~application is not subject to major review and is for development of fewer than ten dwelling units or less~~
1515 ~~than 5,000 gross square feet of non-residential floor area, the DRO may waive review of the application~~
1516 ~~by the Development Review Committee, but the application shall be subject to review by those agencies~~
1517 ~~or parties that the DRO seems appropriate.~~

1518 (e) ~~*Meeting summary.* Within five working days of the Development Review Committee's~~
1519 ~~consideration of the application for development permit, the DRO shall forward to the applicant a written~~
1520 ~~review of matters discussed at the meeting regarding compliance with relevant regulations.~~

1521 (4) ~~*Development review report.* Within thirty (30) days of receipt of all written information from each~~
1522 ~~of the identified parties the Department shall prepare a development review report, which shall~~
1523 ~~include findings and any recommendations regarding the development application. The Town~~
1524 ~~Manager shall review the report and make a final recommendation or preliminary determination.~~
1525 ~~Any Town Manager or DSD recommendations are not binding on any reviewing board or the~~
1526 ~~Commission, but are used to assist the board or Commission in its review of the application.~~

1527 (5) ~~*Amendment to application.*~~

1528 a. ~~An application for a development permit~~ application may be amended by the applicant after it
1529 has been accepted.

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1530 b. The ~~DRO~~ Department shall examine the amendment at the point in the reviewing process at
1531 which it occurs to determine if any portion of the reviewing process must be repeated.

1532 c. If any such portion must be repeated, the ~~DRO~~ DSD is authorized to extend the time limits
1533 prescribed in this Section as long as necessary to undertake such additional review ~~but not to~~
1534 ~~exceed 30 calendar days from the date that the amendment is received.~~

1535 (d) *Applications for Level 1 Review - Administrative Approval.* [The procedures in subsections (d) and (e)
1536 merge the procedures that were found for the two levels of applications/amendments for each type
1537 of application into this one location instead of having similar, though differently worded procedures
1538 for each type of application; approvals which are Administrative are classified as Level 1 Reviews
1539 previously called “minor reviews” and approvals which require Town Commission approval are
1540 classified as Level 2 Reviews, previously called “major reviews”.]

1541 (1) *Board review.* Upon completion of the development review report for a completed development
1542 application subject to Level 1 - Administrative Approval, the DSD shall, if board review is
1543 required, forward the development review report with the Town Manager’s proposed
1544 determination to the reviewing board for their review and recommendation and shall schedule
1545 the development application on the next available board agenda following notice as required in
1546 Section 139 Notice of Public Hearings of this Article.

1547 (2) *Recommendation by Board.* If required to review an application, the applicable board shall
1548 review the application in accordance with this Chapter and make a recommendation for
1549 consideration by the Town Manager. Recommendations of the Board shall be reduced to
1550 writing in the form to Board minutes.

1551 (3) *Town Manager determination.* Following receipt of any relevant board recommendation or
1552 upon completion of the development review report, the Town Manager shall make a final
1553 determination pursuant to Subsection (f) below.

1554 (4) *Application referral.* [from 30-54(j)(2)] If the application is subject to ~~minor review~~ a Level 1-
1555 Administrative review and the Town Manager ~~DRO~~ believes there is a substantial question
1556 regarding the interpretation of this Chapter as it applies to the application, the ~~DRO~~-Town
1557 Commission may refer the matter to the ~~Planning and Zoning Board and/or~~ Town Commission
1558 for a final determination.

1559 ~~(h) *Minor review; development order.*~~

1560 ~~Upon receipt of a completed application for development permit subject to minor review, the DRO~~
1561 ~~shall make a determination, based upon required agency reviews;~~

1562 ~~(1) That the application complies with the applicable standards and minimum requirements of this~~
1563 ~~chapter, or that vested rights exist with regard to any noncompliance, in which case the DRO~~
1564 ~~shall issue a development order granting the application; or~~

1565 ~~(2) That the application is not in compliance with the applicable standards and minimum~~
1566 ~~requirements of this chapter, have been determined by the DRO to be reasonably necessary to~~
1567 ~~ensure compliance with the applicable standards and minimum requirements of this chapter,~~
1568 ~~and vested rights exist with regard to any noncompliance in which; case the DRO shall issue a~~
1569 ~~development order granting the application with such conditions; or~~

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1570 ~~(3) That the application is not in compliance with the applicable standards and minimum~~
1571 ~~requirements of this chapter, in which case the DRO shall issue a development order denying~~
1572 ~~the application.~~

1573 ~~A development order denying an application shall include a statement of the basis for denial. A~~
1574 ~~development order granting an application with conditions shall include a statement of said~~
1575 ~~conditions and the bases therefor.~~

1576

1577 (e) *Applications for Level 2 Review – Town Commission Approval.* ~~[from 30-54 j) (1); 30-54 (k) and 30-8~~
1578 ~~(d)]~~

1579 (1) ~~Referral of applications to Planning and Zoning Board and/or Town Commission Agenda Board~~
1580 ~~review and recommendation. Upon completion of the development review report, For~~
1581 ~~applications subject to major review, within ten calendar days of issuance of the notification of~~
1582 ~~preparedness, the applicant shall respond with a written authorization to proceed. If no written~~
1583 ~~authorization is received within ten calendar days, the application for development permit shall~~
1584 ~~be deemed withdrawn. upon receipt of written authorization from the applicant to proceed, the~~
1585 ~~DRO/Department shall, if required, submit the development review report and recommendation~~
1586 ~~to the for scheduling on the next available agenda of the Planning and Zoning Board or Board~~
1587 ~~of Adjustment applicable board for their review and recommendation and shall schedule the~~
1588 ~~development application on the board's agenda following notice as required in Section 30-138~~
1589 ~~Notice Requirements of this Chapter.~~

1590 (2) ~~Recommendation by Board. If required to review an application, the applicable board shall~~
1591 ~~review the application in accordance with this Chapter and make a recommendation for~~
1592 ~~consideration by the Town Commission. At a regularly scheduled public meeting held within 55~~
1593 ~~calendar days of the DRC review of the development application, the Planning and Zoning~~
1594 ~~Board shall review the application for conformity to this chapter and shall make a~~
1595 ~~recommendation for the consideration of the Town Commission.~~

1596 (3) ~~Scheduling of application on Town Commission Agenda. Following the review by the~~
1597 ~~appropriate advisory board, the Department shall provide the development review report and~~
1598 ~~the recommendation of the advisory Board, if any, and shall schedule the development~~
1599 ~~application on the next available Town Commission meeting following notice as required in~~
1600 ~~Section 30-138 Notice Requirements of this Chapter.~~

1601 (4) ~~Town Commission determination. The Town Commission shall review the application, conduct a~~
1602 ~~hearing de novo on the application at a public hearing and make a final determination pursuant~~
1603 ~~to Subsection (f) below. Where required pursuant to Section 30-139(c)(1) public hearings shall~~
1604 ~~be held in accordance with the procedures set forth in Section 30-139 - Quasi-Judicial~~
1605 ~~Proceedings.~~

1606 (f) *Final Determination.*

1607 (1) ~~The Town Commission, After consideration of the application and the recommendations of the~~
1608 ~~Planning and Zoning Board any reviewing agencies, staff and boards, the Town Manager or~~
1609 ~~Town Commission, as the final decision making authority, shall adopt a final development order~~
1610 ~~that, make one of the following determinations:~~

1611 a. makes a final determination that the application fails to comply with the applicable
1612 requirements and is therefore denied; or

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- 1613 b. makes a final determination that the application, as presented, modified or conditioned
1614 complies with the applicable requirements or is vested with regard to any noncompliance
1615 and is therefore approved; and
- 1616 c. prescribes any appropriate modifications and/or conditions, to ensure compatibility or
1617 mitigate the impacts of the proposed application and to ensure safeguards in conformity
1618 with all applicable laws.
- 1619 (2) ~~Approval of an application that seeks an administrative adjustment to a side setback, which is~~
1620 ~~adjacent to a developed property which and does not meet the setback requirement along the~~
1621 ~~side adjacent to the applicant's proposed adjustment, requires the affirmative vote of a minimum~~
1622 ~~of four Commissioners. The affirmative vote of a minimum of four Commissioners is required to~~
1623 ~~approve an administrative adjustment to a side setback that is adjacent to a developed property~~
1624 ~~that does not meet its setback requirement along the shared property line. [from 30-10(d)(4)b.]~~
- 1625 (3) Violation of any conditions and safeguards, when made a part of the terms under which the
1626 approval is granted, shall be deemed a violation of this Chapter and shall nullify the approval.
- 1627 a. ~~That the application is in compliance with the applicable standards and minimum~~
1628 ~~requirements of this chapter or that vested rights exist with regard to any noncompliance,~~
1629 ~~in which case the Town Commission shall adopt a development order granting approval of~~
1630 ~~the application;~~
- 1631 b. ~~That the application is not in compliance with the applicable standards and minimum~~
1632 ~~requirements of this chapter, in which case the Town Commission shall adopt a~~
1633 ~~development order denying the application; or~~
- 1634 c. ~~That the application is not in compliance with the applicable standards and minimum~~
1635 ~~requirements of this chapter but conditions have been determined by the Town~~
1636 ~~Commission to be reasonably necessary to ensure compliance with the applicable~~
1637 ~~standards and minimum requirements of this chapter, and that vested rights exist with~~
1638 ~~regard to any noncompliance, in which case the Town Commission shall adopt a~~
1639 ~~development order granting approval of the application with said conditions.~~
- 1640 d. ~~That the application is not in compliance with the applicable standards and minimum~~
1641 ~~requirements.~~
- 1642 (4) A final determination by the Town Manager or Town Commission under this Subsection may be
1643 deferred beyond the time calendar day limits in paragraph (1) of this Section if the Town
1644 Manager or Town Commission finds that:
- 1645 a. Available information is insufficient on which to base either approval or denial of a particular
1646 application; and,
- 1647 b. The Town Manager or Town Commission identifies the inadequacy of the information
1648 available with respect to the application and directs or has directed that:
- 1649 1. specific information be provided by staff or the applicant; or
- 1650 2. a specific study commence to provide the Town Manager or Town Commission with
1651 information sufficient to form the basis on which to approve or deny the application; and
- 1652 3. the information will be provided or the study completed within a time certain, not to
1653 exceed six (6) months from the date of the Town Manager or Town Commission's
1654 determination under this Subsection, provided however, as a prerequisite to directing

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1655 ~~that a specific study commence to provide the Town Commission with information~~
1656 ~~sufficient to form a basis on which to approve or deny a particular application, the Town~~
1657 ~~Commission shall identify the inadequacy of the information available with respect to~~
1658 ~~the application.~~

1659 If the applicant fails to provide any information required under this Subsection within the
1660 established timeframe, the Town Manager or Town Commission shall proceed with a final
1661 determination based on the information available at the time of the determination.

1662 (5) Decisions of the Town Commission may be reviewed ~~only~~ by writ of certiorari to the Circuit
1663 Court of Broward County, Florida in accordance with the Florida Rules of Civil Procedure.

1664 (g) *Effect of development order.*

1665 (1) ~~Except as otherwise provided in this chapter, a~~ A development order shall remain effective for a
1666 ~~that period of six months from the date of its adoption as specified by this Chapter for the type~~
1667 ~~of development approval, unless the final decision maker establishes an alternative time frame~~
1668 ~~in the development order, in which case that different time frame shall govern extended by the~~
1669 ~~Planning and Zoning Board or Town Commission.~~

1670 (2) ~~No development permit shall be issued except pursuant to an effective development~~
1671 ~~order. [this requirement moved to 30-112(b)]~~

1672 (2) No development permit shall be issued for a development which is inconsistent with the
1673 development order governing such development.

1674 **Secs. 30-114. —30-118. Reserved.**

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1675 **DIVISION 2. - SITE PLAN PROCEDURES AND REQUIREMENTS**

1676 **Sec. 30-119. - Mandatory site plan approval. [was previously Section. 30-121; 30-119 previously**
1677 **Reserved]**

1678 Approval of a final site plan is required prior to the development of land in the Town of Lauderdale-
1679 By-The-Sea.

1680 (a) *Exempt development.* Notwithstanding any other provision of this Article, the following activities shall
1681 not require compliance with this Section:

1682 (1) The deposit and contouring of fill on land.

1683 (2) Implementation, by a governmental entity, of a water management plan approved by the Town
1684 Commission, as such plan relates to an approved development of regional impact (not
1685 conceptual development of regional impact).

1686 (3) Construction of a single-family home on an existing single ~~family~~ lot.

1687 (4) Construction of a single-family home or duplex on an existing single lot.

1688 (b) Existing development expansions and partial redevelopment.

1689 (1) Notwithstanding any other provision of this Article, the following activities shall be required to
1690 comply with (2) and (3) of this Subsection but shall, upon compliance with (2) and (3) below, not
1691 require compliance with the remainder of this Division.

1692 a. Level 1 site plan amendments to existing conforming properties for which approved site
1693 plan files cannot be located.

1694 b. Conditional use for paid private parking

1695 (2) Applicant will be required to submit an as-built site plan that includes, but is not limited to the
1696 following information:

1697 a. Legal description;

1698 b. Square footage of the lot

1699 c. Required parking spaces

1700 d. Existing parking with the dimensions of the existing spaces and drive isles

1701 e. Computation of pervious, impervious, and paved surface, in square footage and
1702 percentage

1703 f. Building locations, dimensions, setbacks and square footage

1704 g. Drainage

1705 h. If residential, number of dwelling units and density;

1706 i. If restaurant, designated customer service area square footage; and

1707 j. The location of the coastal construction control line (CCCL), if applicable.

1708 (3) Staff will review the as-built provided and as part of the review process, will require
1709 amendments that achieve the maximum degree of compliance possible with this Chapter
1710 without reducing the square footage or density of the current use of the existing structure.

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1711 (4) Improvements to the existing structure that increase the non-conformity of the site are not
1712 allowed except as provided for in Section 30-13 (l) of the Town Code.

1713 **Sec. 30-120. - Application for conceptual or preliminary site plan review. [was previously Section**
1714 **30-122; Sec 30-120 previously Reserved]**

1715 (a) *Necessity of filing.* If the location, design, size, impact or other special problem of a proposed
1716 development warrants, the ~~DRO~~DSD may require an applicant to file an application for preliminary
1717 site plan review prior to filing an application for final site plan approval. In all other cases, an
1718 applicant has the option of filing an application for conceptual site plan or preliminary site plan review
1719 prior to filing an application for final site plan approval.

1720 (b) *Procedures.* An application for conceptual or preliminary site plan review shall be filed and
1721 processed pursuant to ~~Division I – Generally section 30-54~~ of this ~~Article~~ chapter.

1722 (c) *Submission requirements; conceptual site plan.* A conceptual site plan shall include all of the
1723 following information unless waived by the ~~Development Services Director~~ DSD upon a
1724 determination that such information is not applicable or not essential to the review of a specific
1725 project:

1726 (1) Legal description.

1727 (2) Schematic representation of proposed use.

1728 (3) Schematic representation of major vehicular circulation within the site.

1729 (4) Schematic representation of points of connection to the public right-of-way.

1730 (5) Schematic representation of drainage system, including retention areas, swales and direction of
1731 drainage flow.

1732 (6) Computation of proposed number of dwelling units and the total acreage for residential use and
1733 approximate square footage of building for nonresidential use.

1734 (7) Indication of type of water and sewage disposal to be used.

1735 (d) *Submission requirements; preliminary site plan.* An application for preliminary site plan review shall
1736 include a development plan, the overall size of which shall be 24 inches by 36 inches, drawn to a
1737 scales not smaller than one inch equals 50 feet, and shall include all of the following unless waived
1738 by the ~~Development Services Director~~ DSD upon a determination that such information is not
1739 applicable or not essential to the review of a specific project:

1740 (1) Legal description.

1741 (2) Site boundaries clearly identified, and tie to section corners.

1742 (3) A survey prepared by a Florida-registered land surveyor, certified as to meeting the
1743 requirements of ~~Chapter 21H~~ Rule 5J-17, Florida Administrative Code pursuant to Florida
1744 Statutes Chapter 472.072, reflecting existing natural features, such as topography, vegetation,
1745 and waterbodies. Any existing structures and paved areas which will remain on the property
1746 after construction shall be included in the survey.

1747 (4) Proposed land uses.

1748 (5) Location and height of all structures and total floor area with dimensions to lot lines, and
1749 designation of use.

1750 (6) Building separations.

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- 1751 (7) Vehicular circulation system for cars, bicycles and other required vehicle types, with indication
1752 of connection to public rights-of-way.
- 1753 (8) Location of all parking and loading areas. All adjacent rights-of-way, with indication of ultimate
1754 right-of-way line, center line, width, paving width, existing median cuts and intersections, street
1755 light poles and other utility facilities and easements.
- 1756 (9) Pedestrian circulation system.
- 1757 (10) Provider of water and wastewater facilities.
- 1758 (11) Existing and proposed fire hydrant locations and water main sizes.
- 1759 (12) The following computations:
- 1760 a. Gross acreage.
- 1761 b. Net acreage. Gross acreage covered by the property excluding road easements and rights-
1762 of-way, if any.
- 1763 c. Number of dwelling units and density for residential uses only.
- 1764 d. Square footage of ground covered by buildings or structures and designation of use.
- 1765 e. Required number of parking spaces.
- 1766 f. Number of parking spaces provided.
- 1767 (13) Schematic representation of drainage system including retention areas, swales and direction of
1768 drainage flow.
- 1769 (14) Indication of existing native vegetation and portion that will be preserved.
- 1770 (15) Site plan location sketch.
- 1771 (16) Computation of pervious, impervious, and paved surface, in square footage and percentage.
- 1772 (17) Geometry of all paved areas including centerlines, dimensions, radii and elevations.
- 1773 (18) The location of the coastal construction control line (CCCL), if applicable, and the building
1774 envelope and building setbacks.
- 1775 (e) ~~Committee~~Department review of conceptual or preliminary site plan. The ~~Development Review~~
1776 ~~Committee~~Department shall review an application for conceptual or preliminary site plan review and
1777 shall discuss with the applicant any steps necessary to bring the application into compliance with the
1778 requirements for final site plan approval of this Article.
- 1779
- 1780 **Sec. 30-121. - Application for final site plan approval. [was previously Section 30-123]**
- 1781 (a) *Procedures.* An application for final site plan approval shall be filed and processed pursuant to
1782 ~~sections 30-123 and 30-124~~ Division I - Generally of this Article ~~chapter~~.
- 1783 (b) *Submission requirements.* An application for final site plan approval shall include the following
1784 information unless waived by the ~~Development Services Director~~ DSD upon a determination that
1785 such information is not applicable or not essential to the review of a specific project:
- 1786 (1) A development plan, the overall size of which shall be 24 inches by 36 inches, drawn at a scale
1787 not less than one inch equals 50 feet and depicting all of the following:
- 1788 a. All information required for a preliminary site plan.

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- 1789 b. Location of trash and garbage disposal system and provisions for accessibility to garbage
1790 trucks.
- 1791 c. Loading areas and provisions for accessibility to vehicles of the required type.
- 1792 d. Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles
1793 of the required type.
- 1794 e. Location of all drainage features, and retention areas, if any.
- 1795 f. Schematic water and sewer plans.
- 1796 g. A landscape plan demonstrating compliance with applicable landscape regulations.
- 1797 h. Site lighting plan.
- 1798 i. Building floor plans.
- 1799 j. Proposed building colors and materials ~~and colors~~.
- 1800 1. Building colors shall be designated in accordance with a color or paint ~~code generally~~
1801 ~~accepted~~ scheme identified compatible with in the industry. Town's Architectural Design
1802 Standards (ADS) and selected in accordance with the architectural style of the building.
- 1803 2. The applicant shall provide samples of the building materials at the Planning and Zoning
1804 Board and/or Town Commission hearing.
- 1805 3. The building materials and color samples shall be retained by the Town for the purpose
1806 of comparing the completed development with the approved materials and colors. Once
1807 the construction is complete and the Town has determined that the materials utilized match
1808 the approved materials, the Town may keep photographic record of the materials and
1809 dispose of the physical sample in accordance with statutory record retention requirements.
- 1810 k. Front, side and rear elevations of all buildings showing concealment of all mechanical or
1811 accessory equipment located on the roof.
- 1812 l. For presentation purposes, the applicant shall prepare and present to the Planning and
1813 Zoning Board and/or to the Town Commission, as applicable, a landscape plan, site plan
1814 and building elevations which have been colored to accurately reflect the colors and
1815 materials of the proposed development. ~~Upon approval of the final site plan the colored site~~
1816 ~~plan and elevations shall be retained by the Town for the purpose of comparing the~~
1817 ~~completed development with the approved plans. Upon approval of the final site plan the~~
1818 ~~applicant shall submit to the Town color photographs, eight inches by ten inches in size, of~~
1819 ~~the colored site plan and building elevations to be retained by the Town for the purpose of~~
1820 ~~comparing the completed development with the approved plans.~~
- 1821 m. Upon approval of the final site plan, the applicant shall submit to the Town a digital copy of
1822 the colored site plan and building elevations with the approved color manufacturer number
1823 and the manufacturer and style of materials.
- 1824 (2) Renderings, if the improvement 1) is visible from any public right-of-way, 2) is to a building
1825 façade, or 3) involves the renovation or expansion of more than 25 percent of the building area.
1826 Such renderings shall include all of the following:
- 1827 a. Street-level perspective drawings as one would view the project from a pedestrian level,
1828 with ground truths to depict and determine the appropriate scale of the project.
- 1829 b. Oblique aerial drawings from opposing view which indicate the mass outline of all proposed
1830 structures, including the outlines of adjacent, existing and previously approved structures.

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1831 c. Context plan indicating the proposed development and outline of nearby properties with
1832 uses and height labeled.

1833 ~~(c) *Committee review and Board and Commission approval.* The Development Review Committee~~
1834 ~~(DRC) shall review the application for final site plan approval for conformity to the requirements of~~
1835 ~~this article and shall make one of the following determinations:~~

1836 ~~(1) That the application meets the requirements of this article, in which case the Development~~
1837 ~~Review Committee shall submit the application for review by the Planning and Zoning Board.~~
1838 ~~The Planning and Zoning Board will then prepare a recommendation for the consideration of the~~
1839 ~~Town Commission. The Town Commission will then consider the site plan, the recommendation~~
1840 ~~of the Planning and Zoning Board and public comments prior to approval or denial of a site plan.~~
1841 ~~The DRO or a designee, after receiving evidence of approval by the Town Commission, shall~~
1842 ~~indicate such an approval by signing the final site plan. A final site plan signed by the DRO~~
1843 ~~pursuant to this subsection shall constitute a development order granting an application for final~~
1844 ~~site plan approval.~~

1845 ~~(2) That the application does not meet the requirements of this article in which case the Planning~~
1846 ~~and Zoning Board and/or Town Commission shall direct the DRO to issue a development order~~
1847 ~~denying the application.~~

1848 ~~(3) That the application does not meet the requirements of this article, but that the required~~
1849 ~~changes to the application do not warrant filing a new application, in which case the applicant~~
1850 ~~will be allowed to submit a corrected site plan to the DRO within 30 calendar days of the~~
1851 ~~meeting. At a meeting no later than the next regular meeting occurring at least ten working days~~
1852 ~~after the corrected application has been filed, the Development Review Committee shall act on~~
1853 ~~the corrected application as provided in this section.~~

1854 ~~(4) That the application does not meet the requirements of this article, but that the required~~
1855 ~~changes to the application are of such a minor nature that an additional review by the~~
1856 ~~Development Review Committee, Planning and Zoning Board and/or Town Commission is not~~
1857 ~~warranted, in which case the DRO shall approve the application for final site plan with specified~~
1858 ~~conditions, including conformance to the specified conditions, and shall indicate such approval~~
1859 ~~by signing the final site plan.~~

1860 ~~(d) *Review site plan.* If an applicant's development plans change after previously receiving final site plan~~
1861 ~~approval, the applicant may file an application for revised final site plan approval with the DRO. In~~
1862 ~~such cases, the procedures of this section shall be repeated; provided, however, that minor~~
1863 ~~deviations from an approved final site plan may be approved by the DRO.~~

1864 ~~(e) *Conformity to recorded plat.* If a final site plan depicts land previously recorded by plat, the~~
1865 ~~application for final site plan approval shall conform to such plat.~~

1866 ~~(f) *Conformity to zoning regulations.* Development depicted in a final site plan shall conform to all~~
1867 ~~applicable Town zoning ordinances and regulations.~~

1868 ~~(g) *Effective period of final site plan approval.*~~

1869 (1) Unless otherwise designated in the approved development order, upon approval of a site plan
1870 by the Town Commission, the applicant shall have ~~one year~~ twelve (12) months from the date of
1871 approval to obtain a building permit for an above-ground principal structure as shown on the
1872 approved site plan from the Town's permitting authority when the property which is the subject
1873 of the site plan is west of the coastal construction control line and ~~eighteen~~ (18) months when
1874 the property is east of the coastal construction control line.

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1875 (2) ~~The granting of approval for a major A site plan amendment recommences that has been~~
1876 ~~approved on or after [the running effective date of this ordinance] that includes more than one~~
1877 ~~principal structure, shall expire unless all of the above referenced time periods. The granting of~~
1878 ~~approval of a minor site plan amendment does not recommence the running of the above~~
1879 ~~referenced time periods. following occur:~~

1880 a. A complete application and building permit and a certificate of occupancy is issued for one
1881 of the principal structures as provided in Subsection (d).1 above; and

1882 b. A complete application for a building permit for any subsequent principal structure shown
1883 on the approved site plan has been submitted within twelve (12) months following the date
1884 of issuance of a certificate of occupancy for the principal structure most recently completed;
1885 and

1886 c. A building permit for such principal structure is issued within eighteen (18) months following
1887 the date of issuance of a certificate of occupancy for the principal structure most recently
1888 completed; and

1889 d. Such building permit remains valid and in effect until a certificate of occupancy or other
1890 equivalent approval is granted for such principal structure; and

1891 e. A complete application is submitted and building permits are issued for each subsequent
1892 principal structure in accordance with Subsections (d) (2) a., b., and c. until a certificate of
1893 occupancy or its equivalent is issued for all of the principal structures on the approved site
1894 plan.

1895 Notwithstanding the provisions of this Subsection (d) (2), a site plan that includes more than
1896 one principal structure shall expire if certificates of occupancy for all principal structures have
1897 not been issued within four (4) years of site plan approval.

1898 (3) If a building permit for construction of a principal structure as provided herein expires, the site
1899 plan shall expire and prior to issuance of any additional building permits, the applicant shall be
1900 required to submit an application for and receive approval of a new site plan for such principal
1901 structure.

1902 (4) If an applicant fails to secure a building permit in the allowed time, all previous approvals shall
1903 become null and void.

1904 (5) For purposes of this Subsection, a permit, shall mean a master building permit for the main
1905 structure on the property. A demolition, clearing and grubbing permit, foundation, or any other
1906 subpermit shall not constitute a building permit for site plan review purposes.

1907 (6) The Town Commission, at its discretion, may extend the approval of a site plan for an additional
1908 time period, not to exceed one year, provided a request for extension is filed prior to the
1909 expiration of the original one year approval period. In granting such extensions, the Town
1910 Commission may require modifications to or impose additional conditions on the site plan.

1911 **Sec. 30-122. Site plan requirements. [was previously Section 30-124; Existing 30-122 moved to 30-**
1912 **120]**

1913 Development depicted in a site plan shall meet the following requirements:

1914 (a) *Site plan design.*

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- 1915 (1) Off-street parking facilities.
- 1916 a. General design requirements. Internal site circulation shall follow a functional
- 1917 classification and hierarchical design criteria to assure that the movements between
- 1918 the public right-of-way, and the parking stall, are conducted in an efficient and orderly
- 1919 manner. All streams of departing traffic from the parking stalls in a parking lot shall be
- 1920 assembled and delivered to an internal collector facility that combines them into a few
- 1921 concentrated streams which will then be connected to the public right-of-way at a
- 1922 properly spaced access location.
- 1923 b. Functional elements of on-site circulation system. Car parking stalls, parking aisles,
- 1924 driveways, reservoir areas and entrances are the basic functional elements of the on-
- 1925 site circulation system. Additional elements, including but not being limited to
- 1926 perimeter roads, rear collector roads, service roads within the proposed development,
- 1927 left-turning lanes, right-turning lanes, traffic lights, frontage roads in the public right-of-
- 1928 way immediately adjacent to the proposed development may also be required,
- 1929 pursuant to this Article.
- 1930 1. Parking stalls and aisles.
- 1931 i. The minimum size (in feet) of a vehicular parking stall space shall be as
- 1932 follows:
- 1933 9' × 18'—Standard space
- 1934 8.5' × 20'—Parallel space
- 1935 10' × 25'—Loading space
- 1936 12' × 18'—Handicap space
- 1937 8' × 15'—Compact space
- 1938 ii. The minimum size (in feet) of a neighborhood electric vehicular parking stall
- 1939 space shall be 8 feet × 11 feet.
- 1940 iii. All required parking stalls shall have direct and unobstructed access from a
- 1941 parking aisle unless waived by the DRCDS and appropriate board or
- 1942 commission.
- 1943 iv. No parking stall shall directly abut a driveway unless waived by the
- 1944 DRCDS and appropriate board or commission.
- 1945 v. Access for emergency fire-vehicles shall be in accordance with NFPA1
- 1946 Florida Fire Prevention Code ~~fire protection standards~~.
- 1947 vi. All off-street parking areas shall be so arranged and marked as to provide
- 1948 for orderly safe loading, unloading, parking and storage of vehicles with
- 1949 individual parking stalls clearly defined with directional arrows and traffic
- 1950 signs provided as necessary for traffic control.
- 1951 vii. Acceptable plans must illustrate that proper consideration has been given to
- 1952 the surrounding street plan, traffic volumes, proposed street improvements,
- 1953 vehicular street capacities, pedestrian movements and safety.
- 1954 viii. All parking areas shall be so arranged that if there are ten or more
- 1955 contiguous parking stalls along the same parking aisle, the 11th space shall

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- 1956 be a landscaped peninsula a minimum of five feet in width. Other suitable
1957 solutions or innovative designs may be submitted when approved by the
1958 ~~DRC-DSD~~ and appropriate board or commission.
- 1959 ix. Acceptable plans for off-street parking shall designate not more than 25
1960 percent of the total parking spaces as compact parking spaces.
- 1961 2. Driveways.
- 1962 i. All parking aisles shall connect to a driveway.
- 1963 ii. A parking lot which exceeds 60 parking stalls shall be designed with at least
1964 one two-way directional driveway loop system connecting the entrance to
1965 the parking stalls and the principal building. Other innovative designs may
1966 be substituted when approved by the ~~DRC-DSD~~ and appropriate board or
1967 commission.
- 1968 iii. The minimum distance from a driveway, service drive, parking stall, or
1969 parking aisle, to a structure or property line shall be five feet, except at a
1970 drive-in teller or pick-up window. The minimum distance to a driveway,
1971 service drive, or parking aisles from a right-of-way shall be ten feet where
1972 there is no connection between the driveway and the street.
- 1973 iv. Two-way driveways shall be a minimum of 24 feet wide. Required widths
1974 shall be increased according to vehicle type or if the number of parking
1975 stalls connected or the number of trips generated justifies such increase.
- 1976 v. One-way driveways shall be a minimum of 15 feet wide. Required widths
1977 shall be increased according to vehicle type or if the number of parking
1978 stalls connected or the number of trips generated justifies such an increase
1979 in width.
- 1980 vi. Any off-street parking facility shall have either driveway approaches of
1981 sufficient width to allow for two-way traffic, or one-way driveways connected
1982 to aisles, parking areas or maneuvering areas in such a manner as to permit
1983 traffic to both enter and leave the property, facing forward, at the same time.
1984 A driveway which is only wide enough for one-way traffic shall not be used
1985 for two-way access.
- 1986 vii. Driving aisles: Two-way driving aisles shall be a minimum of 24 feet wide;
1987 one-way driving aisles shall be a minimum of 12 feet wide, clearly marked
1988 for one-way traffic.
- 1989 viii. Drive-through requirements: Drive-through service windows, lanes,
1990 markings and stacking spaces required.
- 1991 aa. Businesses that provide a drive-through service are required to provide
1992 drive-through service lane or lanes, whether for stacking or queuing, as
1993 separate and distinct lanes from the circulation lanes necessary for
1994 entering or exiting the property.
- 1995 bb. Each drive-through lane shall be separated from other on-site lanes.
1996 Each such drive-through lane shall be curbed, striped, marked or
1997 otherwise distinctly delineated.
- 1998 cc. Drive-through lanes shall not conflict, or otherwise hamper access, to
1999 or from any parking space.

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- 2000 dd. Pedestrian walkways shall be clearly separated from drive-through
- 2001 lanes.
- 2002 ee. No drive-through speaker box shall be directed to face a residential
- 2003 zoning district.
- 2004 ff. Stacking spaces necessary for the provisions of drive-through lanes
- 2005 shall be determined using the following table:

Type of Facility	Inbound Vehicles	Outbound Vehicles
Drive-thru bank tellers	6 spaces per service position	1 space per service position
Drive-thru bank, automatic tellers	3 spaces per service position	1 space per service position
Drive-thru restaurant (measured from pick-up window)	6 spaces per service position	1 space per service position
Drive-thru coffee/espresso restaurant or café	3 spaces per service position	1 space per service position
Laundry	3 spaces per service position	1 space per service position

- 2006
- 2007 gg. A stacking space is hereby defined as a space within a vehicular use
- 2008 area for the temporary stopping of a vehicle awaiting service as
- 2009 provided in this Section. A stacking space shall be 22 feet long by ten
- 2010 feet wide. A stacking space shall be located in an area within a parking
- 2011 facility which is not used for any other vehicular use such as access,
- 2012 parking, site circulation or loading.
- 2013 hh. Inbound stacking requirements shall be counted from the first stopping
- 2014 point. Outbound stacking requirements shall be counted from the last
- 2015 stopping point.
- 2016 ii. Each stacking space shall be clearly defined on the site plan and shall
- 2017 be in a location that does not conflict or interfere with other traffic
- 2018 entering, using, or leaving the site. Design configuration shall be such
- 2019 that there shall be no backing into the street permitted.
- 2020 jj. Each proposed drive-through business shall be analyzed for
- 2021 consideration of vehicular circulation for other cars, pedestrian
- 2022 circulation, and ADA accessibility.
- 2023 kk. Any business not listed shall have the same requirements as the most
- 2024 similar use described above, as determined by the DSD Development
- 2025 Services Director.

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3. Circulation design. A parking lot abutting a trafficway shall be designed for full circulation. A parking lot abutting a street other than a trafficway may be designed for partial circulation.
 4. Parking and loading areas to be curbed. Except for one-family and two-family dwellings, all parking and loading areas shall be constructed with a six-inch raised curb or bumper blocks located a minimum distance of seven feet behind the street right-of-way line and other property lines along sidewalks, safety islands, driveways, sight distance triangles, and other places as needed unless determined to be unnecessary by a finding of the Town that given the particular circumstances of the site such curb can be eliminated in certain areas without creating safety hazards. The raised curb shall be constructed in such a manner as to prevent vehicles from crossing sidewalks or other pedestrian walkways, other than by means of an approved driveway approach.
- (2) Loading facilities.
- a. Truck loading and unloading areas may be required for all buildings and establishments which receive and/or ship materials or merchandise by truck. The number of loading spaces will be determined by the DRC/DSD and appropriate board or commission.
 - b. Off-street truck loading shall be required except as provided in Subsection c. below. The off-street loading facility shall be designed to accommodate both the parking of and maneuvering of the design vehicle exclusive of those areas designated for aisles, driveways or parking stalls.
 - c. On-street loading shall be permitted on alleys and on a local cul-de-sac street abutting commercial development. Where permitted such on-street loading areas shall berth the design vehicle exclusive of the public right-of-way.
- (3) Vehicular reservoir areas. Adequate reservoir capacity shall be required for both inbound and outbound vehicles to facilitate the safe and efficient movement between the public right-of-way and the development. An inbound reservoir shall be of sufficient size to ensure that vehicles will not obstruct the adjacent roadway, the sidewalk and the circulation within the facility. An outbound reservoir shall be required to eliminate backup and delay of vehicles within the development.
- a. Design. A reservoir area shall be designed to include a space of 12 feet wide by 22 feet long for each vehicle to be accommodated within the reservoir area and so that vehicles within the reservoir area do not block parking stalls, parking aisles or driveways of off-street parking facilities.
 - b. Adjacent to trafficway. The number of vehicles required to be accommodated within a reservoir area adjacent to a trafficway shall be in conformance with the Town's design standards.
 - c. Adjacent to nontrafficway street. All off-street parking facilities shall provide a reservoir area at the point(s) of connection of a driveway with a public right-of-way. The reservoir area for any residential use other than single-family detached or commercial use shall accommodate at least one percent of the number of parking stalls served by the driveway. For parking lots with fewer than 100 cars, the reservoir area shall be able to accommodate at least one car.
- (4) Access for vehicles other than automobiles.
- a. Structures intended for principal uses shall be made accessible to the following type of vehicles:

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- 2072 Residential uses, other than single-family or duplex: Single unit truck (SU).
- 2073 Commercial uses: Single unit truck and semi-trailer (WB-40) combination intermediate.
- 2074 Definitions of, as well as, required specifications for the above vehicle types shall be those
2075 found in the American Association of State Highway and Transportation Officials
2076 (AASHTO) Geometric Highway Design.
- 2077 b. All buildings other than single-family or duplex residences shall be accessible to fire
2078 apparatus from two sides. Fire engines shall be considered as a WB-40 as defined by the
2079 AASHTO Geometric Highway Design. The area required to meet the AASHTO design
2080 standards shall be paved or treated to ensure support to a 16-ton weight vehicle. This area
2081 shall be maintained free of trees and bushes and shall be clearly designated for this
2082 purpose.
- 2083 c. Fire lanes shall be provided for all buildings or any part thereof which are set back more
2084 than 150 feet from the ultimate right-of-way line of a public road, or which exceed 30 feet in
2085 height and are set back more than 50 feet from the ultimate right-of-way line of a public
2086 road. Fire lanes shall be at least 20 feet in width with a minimum of ten feet provided
2087 between the fire lane and any adjacent building. Any dead-end road more than 300 feet
2088 long shall be provided with a turn around area at the closed end. The turn-around area
2089 shall be a minimum of 90 feet in diameter.
- 2090 d. Required parking spaces, parking aisles and driveways shall not be used as loading or
2091 parking areas for any type of vehicle including emergency vehicles other than automobiles.
- 2092 (5) Setbacks.
- 2093 a. Development adjacent to a trafficway shall comply with a ten-foot building setback
2094 requirement.
- 2095 b. Any yard abutting a nontrafficway street shall be considered a front yard. The front yard
2096 requirement for any building construction along a nontrafficway shall be a minimum of five
2097 feet in depth measured from the ultimate right-of-way line where applicable.
- 2098 c. Any fence or hedge which will cause a sight visibility obstruction within 100 feet of a
2099 driveway or cross street, which is to be installed along a nontrafficway collector street shall
2100 be set back a minimum of five feet from the ultimate right-of-way line of the collector.
- 2101 (6) Driveway entrance from public right-of-way. If a driveway connects development to a trafficway,
2102 or a street within a trafficway corridor, the provisions of Subsection 30-122(b) ~~30-124(b)~~ shall
2103 apply. The following requirements apply to driveways connecting development to a
2104 nontrafficway corridor street.
- 2105 a. Design requirements.
- 2106 1. The area within the development to which the driveway provides access shall be of
2107 sufficient size to allow all necessary functions for loading, unloading, and parking
2108 maneuvers to be carried out on private property and completely off the street right-of-
2109 way unless waived by the DRCDS.
- 2110 2. The minimum distance from the ultimate right-of-way line at any ingress or egress
2111 driveway to any interior service drive or parking stall with direct access to such
2112 driveway shall be 22 feet.
- 2113 3. In the case of a main ingress or egress point to a public street or highway from a site
2114 of a major development that provides more than 750 trips per day such as a shopping

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2115 center or multiple-family development, the minimum distance from the ultimate right-
2116 of-way line of the driveway to any interior service drive or parking stall having direct
2117 access to such driveway shall be based on the amount of traffic utilizing the drive as
2118 determined by the DRCDS and appropriate board or commission.

2119 b. Number and location of driveway entrances. In order to provide the maximum safety with
2120 the least interference to the traffic flow on public streets, and to provide ease and
2121 convenience in ingress and egress to private property, the number and location of
2122 driveways shall be regulated relative to the intensity or size of the property served and the
2123 amount of frontage which that property has on a given street as follows:

2124 1. One driveway shall be permitted for ingress and egress purposes to a single property
2125 or development.

2126 2. Two driveways entering on a particular street from a single property or development
2127 may be permitted if all other requirements of this Section are met and if the minimum
2128 driveway spacing between the two driveways equals or exceeds 50 feet.

2129 3. Three driveways entering on a particular street from a single property or development
2130 may be permitted if all other requirements of this Section are met and if the minimum
2131 driveway spacing between adjacent driveways equals or exceed 100 feet.

2132 4. In general, not more than three driveways will be permitted from a single property or
2133 development. However, in the case of extensive property development (property
2134 exceeding ten acres in total land area and/or containing more than 1,000 parking
2135 stalls), additional driveways may be permitted provided all other requirements of this
2136 Section are met and the minimum driveway spacing between adjacent driveways
2137 equals or exceeds 300 feet.

2138 5. The minimum driveway spacing between driveways on adjacent properties shall be 50
2139 feet. This driveway spacing may be modified by the DRCDS and appropriate board
2140 or commission if a traffic engineering study acceptable to the Town demonstrates that
2141 public safety will not be adversely affected by such modification.

2142 c. Driveway entrance width according to type.

2143 1. Ramp-type or swale-type driveway entrance. Except as provided in Subsection 2.,
2144 below, all driveways shall be constructed with the standard ramp-type or swale-type
2145 driveway entrance and shall conform to the width requirements in the Town's design
2146 standards.

2147 2. Street-type driveway entrance. Construction of a street-type driveway shall be
2148 required for entrances of any development which includes a parking area for 300 or
2149 more vehicles or where the development anticipates substantial loading or trucking
2150 operations. Such driveway shall be a minimum width of 30 feet and a maximum width
2151 of 60 feet.

2152 d. Limitations on driveway entrance improvements.

2153 1. There shall be a minimum of 15 feet of straight tangent length between a driveway
2154 and the radius return or chord of the ultimate right-of-way line of an intersection of
2155 local streets. At all other intersections the minimum straight tangent length shall be 50
2156 feet.

2157 2. There shall be a minimum of 45 feet between the closest radius return of a driveway
2158 and the intersection of local street ultimate right-of-way lines. At all other intersections
2159 the distance shall be 80 feet.

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- 2160 3. No driveway entrance shall include any public facility such as traffic signal poles,
2161 crosswalks, loading zones, utility facilities, fire alarm supports, meter boxes, sewer
2162 clean outs, or other similar type structures.
- 2163 4. Within the ultimate right-of-way limits, the maximum recommended driveway grade is
2164 approximately three percent. The maximum allowable grade is 4.2 percent or one-half
2165 inch per foot. The maximum slope immediately beyond the ultimate right-of-way line
2166 shall not change in excess of five percent for either angle of approach or break over
2167 angle. Variations from these standards shall be permitted if adherence to these
2168 standards would cause incompatibility with existing swales.
- 2169 5. Existing driveway approaches shall not be relocated, altered, or reconstructed without
2170 approval for relocation, alteration, or reconstruction of such driveway approaches.
2171 When the use of any driveway approach is changed, making any portion or all of the
2172 driveway approach unnecessary, the developer of the abutting property shall obtain a
2173 permit to abandon the driveway approach and shall, at the developer's expense,
2174 replace all necessary curbs, gutters, swale areas and sidewalks.
- 2175 6. If the closest intersection involves two streets classified as arterial or collector, then
2176 traffic movements to and from any driveway within 125 feet of an intersection with a
2177 collector and 250 feet of an intersection with an arterial shall be limited to right turns
2178 only unless waived by the DRCDSD and appropriate board or commission.
- 2179 7. No driveway shall be constructed prior to issuance of a permit for work in the right-of-
2180 way by the appropriate governmental agency.
- 2181 (7) Limitations on improvements in the ultimate right-of-way. No obstructions of any type which are
2182 deemed unsafe by FDOT or the Town shall be left in the ultimate right-of-way as a result of any
2183 improvements in the ultimate right-of-way.
- 2184 (8) Sight distance.
- 2185 a. Cross-visibility requirements at the intersection of driveways and public rights-of-way. If a
2186 driveway intersects a public right-of-way, there shall be no sight obstruction within a
2187 triangular area of property on both sides of a driveway formed by the intersection of each
2188 side of the driveway and the ultimate right-of-way line with two sides of each triangle being
2189 ten feet in length from the point of intersection and the third side being a line connecting
2190 the ends of the two other sides.
- 2191 b. Cross-visibility requirements at pedestrian crosswalks and other areas of pedestrian
2192 concentration. If a crosswalk intersects a vehicular access aisle, driveway or an ultimate
2193 right-of-way, there shall be no sight obstruction within a triangular area of property on both
2194 sides of a crosswalk or walkway formed by the intersection of each side of the walkway
2195 and the ultimate right-of-way line or aisle with two sides of each triangle being ten feet in
2196 length from the point of intersection and the third side of being a line connecting the ends
2197 of the two sides.
- 2198 c. Sight triangles.
- 2199 1. Within the triangular areas described above, it shall not be permissible to install, set
2200 out, to maintain, or to allow the installation, setting out or maintenance of, either
2201 temporarily or permanently, any vehicular parking space, sign, wall, hedge, shrubbery,
2202 tree, earth mound, natural growth or other obstruction of any kind which obstructs
2203 cross-visibility at a level between 30 inches and eight feet above the level of the
2204 center of the adjacent intersection. Any wall or fence within the sight triangle must be

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- 2205 constructed in such a manner as to provide adequate cross-visibility over or through
2206 the structure between 30 inches and eight feet in height above the driving surface.
- 2207 2. The following will be permitted within the triangular area described above:
- 2208 i. Trees having limbs and foliage trimmed in such a manner that no limbs or foliage
2209 extend into the area between 30 inches and eight feet above the level of the
2210 center of the adjacent intersection. Trees must be so located so as not to create
2211 a traffic hazard. Landscaping except required grass or ground cover shall not be
2212 located closer than five feet from the edge of any roadway pavement, and three
2213 feet from the edge of any alley or driveway pavement.
- 2214 ii. Fire hydrants, public utility poles, street markers and traffic control devices.
- 2215 (9) Design of traffic corridors. A site connected to a street at any point within a trafficway corridor
2216 shall meet the design criteria, requirements and standards of Subsection [30-122\(b\)](#).
- 2217 (10) Design of nontrafficway corridors. A site connected to a street which is not within a trafficway
2218 corridor shall meet the design criteria, requirements and standards of Subsection [30-122\(c\)](#).
- 2219 (11) Pervious area and greenspace.
- 2220 a. The area covered by structures and impervious surface shall not exceed 75 percent for
2221 commercial and 75 percent for residential uses. For the purposes of this requirement all
2222 other use, such as, but not limited to, utilities, transportation and office park, shall be
2223 included in the commercial category. In mixed use developments, the most restrictive of
2224 the applicable impervious area limitations shall be utilized. ~~Pervious brick material may not~~
2225 ~~be counted towards the required landscaped pervious area.~~ If a property fronts the beach
2226 and the property owner has riparian rights on the beach, the portion of the property that
2227 has beach area cannot be counted towards the required landscaped pervious area.
- 2228 1. Pervious areas may be used to satisfy requirements for landscaping and setbacks,
2229 buffer strips, drain fields, passive recreation areas, or any other purpose that does not
2230 require covering with a material that prevents infiltration of water into the ground.
- 2231 2. In the case of the use of an impervious material which does not cover all the surface
2232 to which it is applied, credit towards the computation of the pervious area shall be
2233 given according to the percentage of pervious area that is retained. However,
2234 pervious brick material may not be counted towards the required landscaped pervious
2235 area.
- 2236 ~~i. Pervious paving blocks may not be used within major driveways, loading zones,~~
2237 ~~actively used parking stalls in commercial or industrial developments, or any other~~
2238 ~~area that may cause a liability to the property owner.~~
- 2239 ~~ii. Pervious paving blocks may be used in overflow parking areas, park and recreation~~
2240 ~~parking facilities, and residential areas. In all cases where the pervious paving blocks~~
2241 ~~are used where pedestrian traffic is prevalent, the block voids shall be planted with a~~
2242 ~~nonrunner species of grass such as, but not limited to, zoysia and bermuda grass.~~
2243 ~~However, pervious brick material may not be counted towards the required~~
2244 ~~landscaped pervious area.~~
- 2245 3. In cases where the ULDR allows some required parking stalls to be grassed, no credit
2246 towards the computation of pervious area shall be granted for such areas.
- 2247 b. Each proposed development shall include provisions for the application of best
2248 management practices to enhance retention areas such as grass ponds, grass swales,

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2249 French drains, or combinations thereof, and shall meet all requirements of the applicable
2250 208 Areawide Wastewater Treatment Management Plan.

2251 (12) Natural resource areas. If a proposed development includes all or any part of any lands
2252 identified as a natural resource area by Broward County, or any lands for which a notice of
2253 public hearing for designation as a natural resource area has been given the proposed
2254 development shall incorporate the natural resource area in such a fashion as to significantly
2255 conserve the integrity of the area as appropriate to the affected resource. The proposed
2256 development shall be subject to the following requirements:

2257 a. A generalized resource survey (GRS) shall accompany a development application ~~for a~~
2258 ~~development permit~~. Said GRS shall be conducted by a professional with appropriate
2259 expertise for the resource involved. The survey may be in the form of an aerial or field
2260 survey, showing the approximate location and extent of the resource on the site, and shall
2261 be accompanied by photographs illustrating significant areas. The GRS shall be prepared
2262 at the same scale as the proposed site plan. Said survey shall contain a brief written
2263 assessment of the resources which have been identified.

2264 b. Resource area modification. Negative development impacts upon natural resource areas
2265 are to be discouraged. However, upon demonstration by the applicant that one or more of
2266 the following conditions exist, a modification to the natural resource area may be proposed:

2267 1. Street opening. The location of the natural resource area on the property prevents the
2268 opening of reasonable and necessary travel lanes in a public ROW;

2269 2. Utilities and drainage. The location of the natural resource area on the property
2270 prevents the construction of utility lines or drainage facilities which cannot feasibly be
2271 rerouted;

2272 3. Property access. The location of the natural resource area on the property prevents all
2273 reasonable access to the property; or

2274 4. Property use. The location of the natural resource area on the property precludes all
2275 reasonable use of the property.

2276 c. Resource management plan. Any proposed development activity which would negatively
2277 impact the natural resource area must be mitigated through a long term resource
2278 management plan, approvable by the Office of Planning, which significantly improves the
2279 viability of the remainder of the resource. Said resource management plan must be based
2280 upon the generalized resource survey and provide for the enhancement and/or the
2281 restoration of the ecological value of the remainder of the natural resource area through
2282 the proposed mitigation.

2283 d. No development order shall be issued until an agreement providing for implementation of
2284 the natural resource plan has been executed and recorded, and any covenants,
2285 easements or physical improvements required by the plan are in place; or

2286 e. No certificate of occupancy shall be issued for developments that include natural resource
2287 areas unless it is determined that the applicable provisions of the resource management
2288 plan and agreement specified in Subsection d., above, have been met.

2289 (13) Sidewalks.

2290 a. Location. Sidewalks shall be constructed adjacent to all trafficways delineated on the
2291 Broward County Trafficways Plan, as amended, and functionally classified County roads,
2292 and local streets. Sidewalks shall be on both sides of the trafficway and functionally
2293 classified County roads, except when the DRCDSD approves an alternate pedestrian

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- 2294 circulation plan submitted by the applicant, or the Town Commission waives the sidewalk
2295 requirements on one or both sides of the local street.
- 2296 b. Dimensions. A sidewalk shall be at least five feet wide and shall be constructed in
2297 accordance with ~~all applicable the~~ Town Code and design standards. The sidewalk shall be
2298 separated from the trafficway or street by a curb or swale.
- 2299 c. Pedestrian barriers. The ~~DRC-DSD~~ and appropriate board or commission may require that
2300 a site plan indicate fences, hedges, berms, other landscaping, or other barriers on site
2301 plans in order to discourage pedestrians from crossing hazardous streets at unsafe points
2302 or at numerous points. When possible, sites shall be designed so as to promote pedestrian
2303 street crossings only at traffic control signals, crosswalks, or intersections.
- 2304 (14) Water and wastewater easements. If a water or wastewater line to be maintained by the Fort
2305 Lauderdale Utilities Division, is to be installed, it shall be installed within a dedicated easement
2306 or a dedicated right-of-way if approved by the Fort Lauderdale Utilities Division which meets the
2307 following standards:
- 2308 a. An easement adjacent to a dedicated road right-of-way shall be a minimum of 12 feet in
2309 width, shall run parallel to the dedicated road right-of-way and shall not be included as part
2310 of the road dedication.
- 2311 b. A lot line easement shall be a minimum of 15 feet in total width. Such easement may be
2312 mutually shared by adjoining lots or parcels.
- 2313 c. A maintenance easement in which both water and wastewater lines are to be installed shall
2314 be wide enough to allow for a ten-foot separation between lines unless one of the lines is
2315 entirely encased in concrete.
- 2316 d. The width of an easement immediately adjacent to a building or structure shall be
2317 determined by the following factors: Type of pipeline (water, wastewater, or force main),
2318 size and elevation of line, damage to buildings or structures in the case of failure, and
2319 accessibility to utility maintenance equipment.
- 2320 (15) Architectural review criteria. The Planning and Zoning Board and/or the Town Commission, as
2321 applicable, shall evaluate the building elevations, floor plans, building materials and building
2322 colors submitted by the applicant in terms of the following criteria:
- 2323 a. Consistency and harmony with the design of the existing and approved development within
2324 the surrounding area.
- 2325 b. The extent to which the project design contributes to and enhances the quality of
2326 development within the Town and is consistent with the intent of this Article.
- 2327 c. The extent to which the design of the project is consistent with sound and accepted
2328 architectural, planning and engineering principles.
- 2329 d. Compliance with ~~Article I, General Requirements, Section 30-9, Architectural Standards~~
2330 Article II Development Review Requirements, Division 1 -Architectural Review
2331 Requirements, of this Chapter.
- 2332 (16) Review of potential impacts on adjacent development. The proposed development shall include
2333 a review of potential impacts on adjacent development, to ensure development is compatible
2334 and harmonious with adjacent land uses and does not adversely impact land use activities and
2335 residential areas in the immediate vicinity. Such review shall include, but is not limited to, the
2336 following site plan development characteristics:
- 2337 a. Location of building(s), dimensions, height, and floor area ratio.

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- 2338 b. Location and extent of parking, access drives and service areas.
- 2339 c. Traffic generation and traffic circulation.
- 2340 d. Hours of operation.
- 2341 e. Trash management plan.
- 2342 f. Alteration of light, air, odors, shadows, and noise levels.
- 2343 g. Setbacks and buffers such as fences, walls, landscaping and open space treatment.
- 2344 (b) *Access to trafficway corridors* In order to provide safe and adequate access between proposed
2345 development and trafficways, a trafficway corridor shall meet the following requirements:
- 2346 (1) General street design and construction standards.
- 2347 a. Street capacities shall be determined by the standards established by the Highway
2348 Capacity Manual prepared by the Transportation Research Board of the National Research
2349 Council, Washington, D.C.
- 2350 b. The geometric design of streets shall conform to the minimum standards established by
2351 the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for
2352 Streets and Highways, prepared by Florida Department of Transportation and by A Policy
2353 on Design of Urban Highways and Arterial Streets prepared by the American Association
2354 of State Highway and Transportation Officials (AASHTO).
- 2355 c. The construction of trafficways and work in the public right-of-way shall conform to Broward
2356 County Resolution No. 85-3606, Broward County Administrative Code, Minimum
2357 Construction Standards Applicable to Public Rights-Of-Way Under Broward County
2358 Jurisdiction or the Florida Department of Transportation Standards Specifications for Road
2359 and Bridge Construction.
- 2360 d. The determination of traffic generation rates for a particular development shall conform to
2361 the rates specified in the latest version of the Institute of Transportation Engineers (ITE)
2362 "Trip Generation" Handbook. Alternately, rates adopted for the Broward County Traffic
2363 Review and Impact Planning System (TRIPS) may be substituted if not covered by the ITE.
- 2364 (2) Design criteria and street characteristics within a trafficway corridor.
- 2365 a. Trafficway streets shall conform to the criteria and characteristics established by and
2366 shown on the Broward County Trafficways Plan.
- 2367 b. Collector streets which have not been identified on the Broward County Trafficways Plan
2368 shall conform to the criteria and characteristics of the Town's design standards.
- 2369 c. Local streets within a trafficway corridor shall conform to the criteria and characteristics of
2370 the Town's design standards.
- 2371 (3) Intersections. The minimum spacing requirements of this Section may be reduced upon a
2372 finding by the County that, given the particular conditions of the proposed development, such
2373 reduction will not compromise operational and safety standards.
- 2374 a. Additional right-of-way required at intersections.
- 2375 1. For the installation of traffic control equipment, a chord may be drawn at each
2376 intersection, and the area between the chord and the tangents of the intersecting
2377 streets shall be dedicated or, if acceptable to the Town, granted by easement. Such
2378 required chord shall be based on the radius shown for the particular intersection as
2379 specified in the Town's design standards.

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- 2380 Provided, however, that for intersections between two local streets, the area between
2381 the chord and the arc of the circle formed by the radius:
- 2382 i. Is required only where determined by the DRCDSD and appropriate board or
2383 commission to be necessary for installation of utilities or traffic control devices;
2384 and
- 2385 ii. Need only be granted by easement.
- 2386 2. Intersection expansion. In order to expand the intersection to handle additional
2387 approach lane capacity, additional right-of-way shall be provided consistent with the
2388 Town's design standards.
- 2389 (4) Median openings. To assure traffic safety, capacity and control, median openings located within
2390 a trafficway corridor shall conform to the following criteria:
- 2391 a. Location.
- 2392 1. No median opening shall be spaced at a distance less than 760 feet from the
2393 intersection of two arterials unless waived by the DRCDSD and appropriate board or
2394 commission.
- 2395 2. No median opening shall be spaced at a distance less than 660 feet from any other
2396 median opening unless specifically approved by the responsible agency based on a
2397 finding that, given the particular conditions of the proposed development, such
2398 determination will not compromise traffic operational and safety standards.
- 2399 3. Dedicated public streets are given priority consideration over nonpublic access for
2400 median openings.
- 2401 4. Provided the above conditions are satisfied, a median opening serving a local street
2402 or minor driveway may be spaced at a distance of not less than 510 feet from another
2403 median opening if the following requirements are met:
- 2404 i. A trip generation study acceptable to the DRCDSD and appropriate board or
2405 commission demonstrates that the intersecting local street or minor driveway will
2406 not carry an average daily traffic (ADT) greater than 2,000 vehicles per day. This
2407 value is to be reduced appropriately if the median opening also serves a
2408 significant number of U-turns daily.
- 2409 ii. The local street system or site plan incorporates design and traffic control
2410 features acceptable to the DRCDSD, and appropriate board or commission and
2411 responsible agency to prevent use of local streets and minor driveways by
2412 nonlocal traffic.
- 2413 b. Design criteria.
- 2414 1. All median openings shall include left-turn lanes with at least 200 feet storage with
2415 100 feet transition unless otherwise demonstrated by a traffic engineering study based
2416 on the ultimate use, acceptable to the DRCDSD, and appropriate board or
2417 commission and responsible agency. Increased storage and transition lengths may be
2418 required to eliminate disruption of through-traffic flow.
- 2419 2. Final design of median openings must be approved by the DRCDSD and responsible
2420 agency for compliance with the standards set forth in Subsection ~~30-124(b)(1)c~~ 30-
2421 122(b)(1)c.
- 2422 (5) Setback on trafficway.

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- 2423 a. Any building constructed along a street within a trafficway corridor shall have a minimum
2424 setback of ten feet in depth measured from the ultimate right-of-way line.
- 2425 b. Any fence or hedge constructed along a street within a trafficway corridor which would
2426 cause a sight visibility obstruction shall be set back a minimum of ten feet from the ultimate
2427 right-of-way line.
- 2428 c. The minimum distance from a driving aisle or an access easement, or both, to the ultimate
2429 right-of-way line of a street within a trafficway corridor shall be ten feet where there is no
2430 connection to a driveway.
- 2431 d. Within the ten-foot setback area included in the street or driveway intersection sight
2432 triangle thereby created, it shall be unlawful to install, set out or maintain, or to allow the
2433 installation, setting out or maintenance of any sign, hedge, shrubbery, tree, natural growth
2434 or other obstruction of any kind which obstructs cross-visibility at a level between 24 inches
2435 and 96 inches above the level of the center of the adjacent intersection.
- 2436 e. The ten-foot setback requirement of Subsection d may be modified or waived by the
2437 DRCDSD and appropriate board or commission to the extent that a traffic study acceptable
2438 to the Town demonstrates that the public safety will not be adversely affected by such
2439 modification or waiver.
- 2440 (6) Bus bay requirements. If the development abuts a trafficway or trafficway corridor with an
2441 existing or proposed bus route, additional right-of-way for and construction of bus pullout bays
2442 may be required to provide for bus stops in suitable locations as determined by the DRCDSD
2443 and appropriate board or commission pursuant to the following standards:
- 2444 a. Bus pullout bays are specialized bus stop auxiliary lanes, independent of the through-traffic
2445 travel lane. A bus pullout bay allows through-traffic to flow freely, without being impeded by
2446 stopped buses. Design of bus pullout bays shall conform to the following:
- 2447 1. Design requirements. All bus pullout bays shall be designed as follows:
- 2448 i. Twelve feet in width.
- 2449 ii. One hundred ninety-six feet in length; consisting of 60 feet of inbound transition,
2450 100 feet of storage, and 36 feet of outbound transition.
- 2451 2. Location. Bus pullout bays shall be required in the following locations:
- 2452 i. If the development is a shopping center or activity center, or major residential
2453 development.
- 2454 ii. If the development is on the far side of an intersection of two trafficways or a
2455 trafficway and a nontrafficway collector.
- 2456 3. Sidewalk. Construction of on-site sidewalks and sidewalk along adjacent roadways
2457 shall be designed to connect building entrances and bus pullout bays as directly as
2458 possible, to avoid conflicts between passengers and parking spaces, driving aisles,
2459 and landscaping.
- 2460 i. Design. Sidewalks shall be at least five feet wide. The sidewalk shall be
2461 separated from the roadway or from the driving aisles by a curb or swale and
2462 shall be wheelchair accessible. Construction shall connect to adjacent bus stops
2463 or bus shelters.
- 2464 (7) Bus shelter easement requirement. If the development abuts a trafficway or trafficway corridor
2465 with an existing or proposed bus route, bus shelter easements may be required in suitable

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- 2466 locations as determined by the ~~DRC~~DSD, and appropriate board or commission and the
2467 Broward County Mass Transit Division pursuant to the following standards:
- 2468 a. The easement shall generally be 14 feet by eight feet in size.
- 2469 b. Such easements shall be a minimum of 1,200 feet apart.
- 2470 (8) Nonvehicular ingress and egress line. If development abuts a street within a trafficway corridor,
2471 a nonvehicular ingress and egress line shall be delineated along the ultimate right-of-way line
2472 except at those points of access provided in conformance with the standards of this Article.
- 2473 In order to amend a nonvehicular ingress and egress line reflected on the face of a recorded
2474 plat the applicant shall file an application with the Office of Planning for submittal to the Broward
2475 County Board of County Commissioners. The application shall be subject to the Broward
2476 County development review process. The Town will provide a written response to the County
2477 regarding the proposed change in the nonvehicular ingress and egress line. Any change in the
2478 nonvehicular ingress and egress line approved by the Board of County Commissioners shall be
2479 reflected in a document recorded in the public records of Broward County, Florida.
- 2480 (9) Vehicular access to trafficways. Nondedicated or dedicated vehicular access to a street within a
2481 trafficway corridor shall conform to the following standards.
- 2482 a. General design requirements. The design of driveways shall be regulated as follows:
- 2483 1. Any development with access to a trafficway shall have either driveway approaches of
2484 sufficient width to allow for two-way traffic, or one-way driveways connected to aisles,
2485 parking areas or maneuvering areas in such a manner as to permit traffic to both enter
2486 and leave the development, facing forward, at the same time. A driveway which is
2487 only wide enough for one-way traffic shall not be used for two-way access.
- 2488 2. The area within the development to which the driveway provides access shall be of
2489 sufficient size to allow all necessary functions for loading, unloading, and parking
2490 maneuvers to be carried out on private property and completely off the street right-of-
2491 way.
- 2492 b. Type of driveway required:
- 2493 1. Minor driveway entrance. The minimum distance from the ultimate right-of-way line at
2494 any ingress or egress minor driveway to the outer edge of any interior service drive or
2495 parking space with direct access to such driveway shall be 25 feet, measured
2496 perpendicularly from the ultimate right-of-way line. This driveway shall provide service
2497 for a maximum average daily trip volume of 400 vehicles or a maximum of an average
2498 peak hour inbound right-turn volume of 40 vehicles or both. A minor driveway
2499 entrance radius shall be 30 feet and a minimum width shall be 24 feet. The ~~DRC~~DSD
2500 may require a deceleration lane of 12 feet in width, 150 feet storage with 100 feet
2501 transition, unless a traffic engineering study acceptable to the Town demonstrates that
2502 the modification or absence of such a lane will not adversely impact traffic conditions.
- 2503 2. Intermediate driveway. The minimum distance from the ultimate right-of-way line at
2504 any ingress or egress intermediate driveway to the outer edge of any interior service
2505 drive or parking space with direct access to such driveway shall be 50 feet, measured
2506 perpendicularly from the ultimate right-of-way line unless waived by the ~~DRC~~DSD.
2507 This driveway shall provide for a maximum average daily trip volume of 2,000 vehicles
2508 and/or a maximum average peak hour volume of 200 vehicles. A minimum
2509 deceleration lane 12 feet wide, 150 feet storage with 100 feet transition shall be
2510 provided, unless a traffic engineering study acceptable to the ~~DRC~~DSD demonstrates

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- 2511 that the modification or absence of such a lane will not adversely impact traffic
2512 conditions. A minimum of two egress lanes 12 feet in width each with one 16-foot wide
2513 ingress lane shall be provided. An intermediate driveway radius shall be 35 feet.
- 2514 3. Major driveway entrance. The minimum distance from the ultimate right-of-way line at
2515 any ingress or egress major driveway to the outer edge of any interior service drive or
2516 parking space with direct access to such driveway shall be 100 feet, measured
2517 perpendicularly from the ultimate right-of-way line unless waived by the DRCDSD.
2518 This driveway shall provide for a maximum average daily trip volume of 5,000 vehicles
2519 and/or a maximum average peak hour volume of 500 vehicles. A minimum
2520 deceleration lane 12 feet wide, 200 feet storage and 100 feet transition shall be
2521 provided, unless a traffic engineering study acceptable to the DRCDSD and
2522 appropriate board or commission demonstrates that the modification or absence of
2523 such a lane will not adversely impact traffic conditions. A minimum of two egress
2524 lanes 12 feet each in width and one 16-foot wide ingress lane shall be provided. A
2525 major driveway radius shall be 40 feet.
- 2526 4. Major driveway, signalized. Any major drive requiring traffic signal shall conform to
2527 those warrants specified in the Manual of Uniform Traffic Control Devices in addition
2528 to the following minimum requirements:
- 2529 i. The installation of any traffic signal shall be subject to the standards of the
2530 Florida Department of Transportation.
- 2531 ii. A right turn shall be provided at all driveway locations where posted speeds are
2532 35 mph or greater unless waived by the DRG-DSD and appropriate board or
2533 commission.
- 2534 iii. Number and location of driveways. The number and location of driveways shall
2535 be determined as follows:
- 2536 aa. *Spacing of driveways.*
- 2537 a. To allow for proper corner clearance, the minimum tangent curb length
2538 between a minor driveway and an intersection shall be 50 feet unless
2539 waived by the DRCDSD and appropriate board or commission.
- 2540 b. If the closest intersection involves two streets classified as arterial or
2541 collector, then traffic movements to and from any driveway within 660
2542 feet of an intersection with a collector and 760 feet of an intersection
2543 with an arterial shall be limited to right turns only unless waived by the
2544 DRCDSD and appropriate board or commission.
- 2545 c. Minimum acceptable spacing between intermediate or major driveways
2546 and an intersection shall be similar to the criteria for intersections of
2547 local streets with a trafficway or collector.
- 2548 bb. *Frontage.*
- 2549 a. One driveway shall be permitted for ingress and egress purposes to a
2550 single property or development.
- 2551 b. Two driveways entering a particular arterial street from a single
2552 property or development may be permitted if all other requirements of
2553 this Section are met and if the minimum distance between the adjacent
2554 driveways conforms to the minimum spacing requirements of
2555 subparagraph (cc) below.

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- 2556 c. Three driveways entering a particular arterial street from a single
2557 property or development may be permitted if all other requirements of
2558 these regulations are met and if the minimum distance between
2559 adjacent driveways conforms to the minimum spacing requirements of
2560 subparagraph (cc) below.
- 2561 d. A joint access driveway will be considered as adequate access for any
2562 two adjacent developments. For a development where additional
2563 driveways are being requested and where those driveways do not meet
2564 the spacing requirements, the applicant shall be required to submit a
2565 brief traffic report justifying the need, describing the internal circulation
2566 and parking system, and identifying the impact of the development and
2567 its proposed access facilities on the operation of the trafficway corridor.
- 2568 cc. *Driveway centerline spacing requirements within trafficway corridor.*
- 2569 a. The minimum distance between centerlines of two-way driveways shall
2570 conform to the Town's design standards. For those driveways with left
2571 turn movements, median opening spacing requirements shall have
2572 precedence.
- 2573 b. Driveway centerline spacing may be increased if the required turn lane
2574 storage or transition is increased by any governmental agency.
- 2575 c. Minimum driveway centerline spacing may be decreased if one-way
2576 driveways are utilized and accepted by the DRCDSD, and appropriate
2577 board or commission and appropriate agency.
- 2578 dd. *Special driveway requirements.* In the case of a land use with special
2579 driveway needs, an applicant may submit a traffic engineering study
2580 requesting technical deviations from the requirements of this Section. If
2581 deviations from driveway requirements are permitted, substitute
2582 requirements which deviate no more than necessary to serve the special
2583 land use needs may be applied to the development in order to minimize the
2584 impact on the adjacent street. Such deviations from the driveway
2585 requirements shall be approved by the DRCDSD, and appropriate board or
2586 commission and the appropriate agency.
- 2587 ee. *Replacement of abandoned [relocation or abandonment of driveways] within*
2588 *a trafficway corridor.* Existing driveway approaches shall not be relocated,
2589 altered, or reconstructed without approval for relocation, alteration, or
2590 reconstruction of such driveway approaches. When the use of any driveway
2591 approach is changed, making any portion of all of the driveway approach
2592 unnecessary, the developer of the abutting property shall obtain a permit
2593 from the appropriate agency to abandon the driveway approach and shall, at
2594 his expense, replace all necessary curbs, gutters, and sidewalks.
- 2595 ff. *Turning lanes.*
- 2596 a. Left-turn lane requirements immediately adjacent to the development.
2597 A left-turn lane with a minimum of 200 feet storage with 100 feet
2598 transition shall be provided at each driveway that meets the minimum
2599 spacing requirements of Subsection ~~30-122(b)(4)~~ 30-124 (b)(4), when
2600 the speed limit equals or exceeds 35 mph or if the average daily traffic
2601 (ADT) of the driveway is 1,000 vehicles or more and/or the average
2602 peak hour inbound left-turn volume is 25 vehicles or more.

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- b. Right-turn lane requirements immediately adjacent to the development. A right-turn lane with a minimum of 150 feet of storage and 100 feet of transition shall be provided at each driveway when the speed limit equals or exceeds 35 mph or if the development will generate 100 or more right-turn movements during the peak hour.
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- c. Intersection improvements immediately adjacent to the development. At intersections which abut the development the following improvement shall be provided:
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1. A right-turn lane shall be provided if the street's speed limit equals or exceeds 35 mph or if the development will generate 100 or more right turns during the peak hours.
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2. A left-turn lane shall be provided if the street's speed limit equals or exceeds 35 mph or if the development will generate 25 or more left turns during the peak hour.
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- d. Required storage and transition lengths may be modified where conditions warrant and are acceptable to the ~~DRG~~DSD, and appropriate board or commission and appropriate agency. When storage and transition lengths are so modified, the minimum distances set forth in the Town's design standards may be correspondingly adjusted if appropriate.
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- gg. *Frontage roads within the public right-of-way.* All driveway access along arterials with existing or planned frontage roads shall be provided to such frontage roads. To gain temporary direct access to the arterial, the developer shall construct the section of the frontage road adjacent to the property. The frontage road section shall be located where planned. Any right-of-way not previously dedicated shall be dedicated prior to issuance of a temporary driveway permit providing direct access to the arterial. If driveway access is provided from frontage roads, driveway spacing and property clearance and minimum lot width requirements under this Section may be reduced by one-third. However, minimum driveway spacing for temporary direct access to the arterial should be adequate to ensure safe traffic operation at the design speed.
- 2635
- hh. *Access between trafficway and private property.*
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- a. Access easement. Easement for and construction of access on private property shall be required when property that abuts an existing or proposed roadway does not or will not align with an approved median access or when the location of the property will prohibit adjacent properties of similar land use from gaining access to an approved median opening. The easement shall guarantee the interconnection to and through such properties for access to and from the divided roadway.
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- b. Location. The intersection of any portion of an access easement with that portion that contains the driveway shall conform to the minimum depth of the appropriate driveway type as required by this Section.
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- c. Design. The minimum pavement width for the two-way access shall be 24 feet.

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- 2696 b. Access to development.
- 2697 1. Every lot or parcel shall be served from a publicly dedicated street; provided however,
2698 that a developer may retain as private a local street or a collector nontrafficway street
2699 if the following conditions are met:
- 2700 i. Public right-of-way is not required in order to serve adjacent development that is
2701 existing or projected on the Town's certified local land use plan;
- 2702 ii. A permanent access easement is granted for service and emergency vehicles
2703 and for maintenance of public and semi-public utilities; and
- 2704 iii. A reciprocal easement for ingress and egress is granted all residents of the
2705 development;
- 2706 iv. Private local or collector streets comply with all applicable construction standards
2707 contained in the "Minimum Construction Standards Applicable to Public Rights-
2708 of-Way Under Broward County Jurisdiction," adopted by Resolution No. 85-3606,
2709 set out in the Broward County Administrative Code.
- 2710 c. Right-of-way required. An applicant will be required to dedicate right-of-way in addition to
2711 the right-of-way requirements of the Town's design standards in the following situations:
- 2712 1. If proposed access from the development to an existing dedicated and accepted
2713 street does not meet the total right-of-way requirement for a complete road.
- 2714 2. If a development has a greater impact on an existing road than that for which the
2715 roadway width had previously been designed.
- 2716 3. If a development abuts or contains an existing street of inadequate right-of-way width.
- 2717 d. Alleys.
- 2718 1. Alleys may be provided to serve residential, business, commercial and industrial
2719 areas and shall be a minimum of 30 feet in width.
- 2720 2. Changes in direction of the alignment of an alley shall be made on a centerline radius
2721 of not less than 50 feet.
- 2722 3. Dead-end alleys shall be prohibited where possible, but if unavoidable, shall be
2723 provided with adequate turnaround and facilities for service trucks at the dead-end,
2724 with a minimum external diameter of 100 feet of right-of-way, or as determined to be
2725 adequate by the DRCDSD and the appropriate board or commission.
- 2726 4. At intersections with streets or other alleys, a corner chord right-of-way based on not
2727 less than a 20-foot radius shall be provided by dedication or, if acceptable to the
2728 DRCDSD and Town Commission, by grant of easement.
- 2729 e. Blocks.
- 2730 1. The length, width and shape of blocks shall be determined with due regard to:
- 2731 i. Provisions of adequate building sites, suitable to the needs of the use
2732 contemplated.
- 2733 ii. Zoning requirements as to the lot sizes and dimensions.
- 2734 iii. Need for convenient and safe access, circulation and control of pedestrian and
2735 vehicular traffic.
- 2736 iv. Limitations and opportunities of topographic features.

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- 2737 2. Pedestrian crosswalks, of not less than ten feet in width, may be required in blocks if
2738 necessary, to provide safe and convenient access to schools, playgrounds, shopping
2739 centers, transportation or other community facilities in accordance with Subsection (iii)
2740 of this Section.
- 2741 f. Lots.
- 2742 1. The lot arrangement and design shall be such that all lots will provide satisfactory and
2743 desirable building sites, properly related to the topography and to the character of the
2744 area.
- 2745 2. Lot dimensions and areas shall not be less than those specified by the applicable
2746 zoning regulations.
- 2747 3. Side lot lines shall be substantially at right angles or radial to street lines.
- 2748 4. The minimum arc frontage for lots abutting the turnaround of a cul-de-sac shall be 25
2749 feet for residential uses and 60 feet for uses other than residential.
- 2750 (2) Design criteria for local streets by development type. The design of local streets shall comply
2751 with the requirements of the provisions of the Town's design standards depending on the type
2752 of development proposed. Deviations may be allowed but only where approved by the
2753 ~~DRCDS~~ and Town Commission upon a finding that substantially equivalent protection of the
2754 public safety can be achieved by alternative standards; provided, however, that no alternative
2755 standard having more than a ten percent deviation from the numerical standard stated below
2756 shall be permitted. If a proposed development includes more than one type of use, the highest
2757 criteria shall apply.
- 2758 a. Residential development. Residential streets shall be adequate to permit neighborhood
2759 traffic circulation to flow from the highest element of the hierarchical classification, the
2760 expressway, arterial or collector, to the lowest element, the local residential street.
2761 Circulation within a residential development shall be adequate when the criteria of the
2762 Town's standards are met and when collectors and local streets are provided which meet
2763 the standards of the comprehensive plan.
- 2764 1. Residential collector street. The residential collector street serves as the principal
2765 circulation facility within the residential neighborhood unit. Its function is to collect
2766 traffic from the interior and deliver it to the closest perimeter intraneighborhood
2767 transportation between the residential units and the local centers of attraction such as
2768 neighborhood shopping centers, schools, and neighborhood parks.
- 2769 2. Local residential street. The primary function of the local street is to provide the
2770 access of vehicles to single-family residential development fronting on the street.
2771 Local streets shall provide access to low density residential development and connect
2772 local traffic from private driveways to collector streets. Local streets are required when
2773 connections of driveways or private streets to the collector would be otherwise closer
2774 than 250 feet.
- 2775 b. Commercial development. Commercial development shall be designed to satisfy the needs
2776 generated by residential development. The size and location of the proposed commercial
2777 development shall be appropriate to support the proposed use.
- 2778 1. Pedestrian access. Neighborhood and community commercial facilities shall have an
2779 efficient and direct pedestrian connection to the residential areas the facilities are
2780 intended to serve. The design of local commercial facilities shall allow pedestrian and
2781 bike riders direct access from adjacent neighborhood areas, with due consideration to
2782 the elimination of points of conflict between pedestrians and vehicles.

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2783

2784 **Sec. 30-123. Modification of approved site plan.** [Moved from 30-123(d) and Sec 30-54(m)(4);
2785 **Previous 30-123 moved to 30-121; 30-123 (c) deleted]**

2786 If an applicant's development plans change after previously receiving final site plan approval, the
2787 applicant may file an application for modification of an approved ~~for revised final site plan approval~~
2788 with the DRO Department ~~In such cases, the procedures of this Section shall be repeated; provided,~~
2789 ~~however, that minor deviations from an approved final site plan may be approved by the DRO.~~
2790 Applications for modification of an approved site plan shall be classified as provided below.

2791 (a) ~~Minor: A non-impacting modification which will have Level 1 - Administrative approval. A~~
2792 Level 1 site plan modification will, as determined by the Town Manager, have:

2793 (1) no adverse effect on the approved site and development plan; ~~and~~

2794 (2) no adverse impact upon adjacent and nearby properties; and

2795 (3) no adverse aesthetic impact when viewed from a public right-of-way. ~~as~~
2796 ~~determined by the Town Manager and/or his designee(s)~~

2797 (b) ~~Major-Level 2 - Town Commission approval. A Level 2 site plan modification which~~
2798 presents a significant change in intensity of use which, in turn, may have a significant
2799 impact upon facilities, concurrency, upon nearby and adjacent properties, or upon findings
2800 made at the time of approval of the site and development plan as determined by the Town
2801 Manager and/or his designee and which requires Town Commission review and approval.

2802 (c) Modification Level Criterion. ~~In making determining a minor/major the level of review~~
2803 applicable to a modification determination, the Town Manager and/or his designee shall
2804 consider the following questions:

2805 (1) Does the modification increase the buildable square footage of the development?

2806 (2) Does the modification reduce the provided number of parking spaces below the
2807 required number of parking spaces?

2808 (3) Does the modification cause the development to be below the development standards
2809 for the zoning district in which it is located or other applicable standards in the Land
2810 Development Regulations?

2811 (4) Does the modification have an adverse effect on adjacent or nearby property or
2812 reduce required physical buffers, such as fences, trees, or hedges?

2813 (5) Does the modification adversely affect the elevation design of the structure or reduce
2814 the overall design of the structure below the standards stated in Article I, Division 2 –
2815 Architectural Review Requirements?

2816 (6) Does the modified development meet the concurrency requirements of the Town of
2817 Lauderdale-By-The-Sea Comprehensive Plan?

2818 (7) Does the modification alter the site layout so that the modified site plan does not
2819 resemble the approved site plan?

2820 (d) Appeal. ~~When any determination of modification made by the Town Manager or his~~
2821 designee is challenged or contested by the applicant, an appeal may be taken to the Town
2822 Commission.

2823 (e) Procedure. All site plan modifications shall be processed as follows set forth in Division I -
2824 Generally of this Article, pursuant to its categorization:

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- 2825 1. ~~Minor: Administrative review and action by the appropriate Town departments.~~
- 2826 2. ~~Major: Processing is the same as for the original site plan.~~
- 2827 (f) Required information. The following information must be presented with a request for a site
2828 plan modification:
- 2829 (1) Minor: A letter from the applicant which sets forth the requested changes, along with an
2830 exhibit showing that portion of the site plan which is to be changed in its present condition
2831 and an exhibit depicting the requested change.
- 2832 (2) Development Order approving the original site plan, if applicable.
- 2833 (3) Site plan information as may be deemed necessary by the Department.
- 2834 ~~Major: A major modification shall contain the same information as required for a new site plan~~
2835 ~~submittal:~~
- 2836 (g) ~~reserved~~ Time frame.
- 2837 (1) Upon approval of a Level 2 major site plan modification by the Town Commission, the
2838 applicant shall have six (6) months or until the expiration date of the original approval,
2839 whichever is later, to secure a building permit from the ~~Development~~ Department.
- 2840 (2) If an applicant fails to secure a building permit in that time, all previous approvals shall
2841 become null and void and the applicant will be required to resubmit the plan for site plan
2842 review.
- 2843 (3) At its discretion, the Town Commission may extend the approval of a major site plan
2844 modification for a six-month period.
- 2845 (4) Level 1 - Administrative site plan ~~Minor~~ modifications shall not extend the time limits of
2846 an approved site plan.
- 2847 (h) Reporting. ~~The Town Manager and/or his designee(s)~~ DSD shall prepare and provide to
2848 the Town Manager file a quarterly report on Level 1 - Administrative approval site plan
2849 modifications, which shall be filed quarterly a report on minor site plan modifications with
2850 the Town Commission.

2851 **Sec. 30-124. Dedication and conveyance credits and adjustments. [moved from Section 30-55]**

2852 (a) Whenever a development order approving a site plan includes a condition of approval requiring the
2853 dedication of fee title interest in land for right-of-way, sidewalks, utilities, access or any other Town or
2854 public purposes, the Town Commission may grant:

- 2855 (1) Density credit for all or a portion of the land dedicated or conveyed to the Town or the public;
- 2856 (2) Adjustment to building setback requirements and encroachments thereon; and/or
- 2857 (3) Relief from the requirements for providing open space.

2858 (b) At such time as the development order is approved and recorded, and the land has been dedicated
2859 or conveyed, the approved site plan shall be deemed to be in conformity with all provisions of the Town's
2860 Code of Ordinances.

2861 **Sec. 30-125 Reserved.**

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2862 **DIVISION 3 - CONDITIONAL USE PROCEDURES AND REQUIREMENTS**

2863 **Sec. 30-126. Conditional uses review.** [moved from Section 30-56]

2864 (a) ~~Defined Generally.~~ A conditional use is a use that would not be appropriate without restriction
2865 throughout the land use district, but which, if controlled as to number, area, location, hours of
2866 operation, and relation to the neighborhood or impacted vicinity, would promote the public health,
2867 safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood.

2868 (b) *Intent, Purpose and Effect.* The purpose of this Section is to ensure that a conditional use shall only
2869 be permitted on specific sites as provided in a particular zoning district or as provided in this Code,
2870 where the proposed use may be adequately accommodated without generating adverse impacts on
2871 properties and land uses within the immediate vicinity.

2872 This Section sets forth the procedures and criteria for approval of conditional uses on specific sites.
2873 A conditional use is quasi-judicial, and shall be permitted only upon a finding that the proposed use
2874 satisfies the specific review criteria of this Section and other requirements of this Code.

2875 An approval of a conditional use does not eliminate the need for other approvals, which may be
2876 required under this Code, including but not limited to site plan review. ~~Site plan approvals shall be
2877 processed concurrently with the conditional use application (and, if required, the site plan public
2878 hearing shall be held jointly with the conditional use public hearing).~~

2879 (c) *Application.* A conditional use application shall provide the following information unless waived by
2880 the DSD Development Services Director:

2881 ~~i. A copy of any existing approved site plan;~~

2882 ~~ii. If no previously approved site plan exists, a site plan, providing the information required in
2883 Article IV of Chapter 30 of the Land Development Code, except that the Development Services
2884 Director may waive individual components of the site plan requirements;~~

2885 i. Traffic impact study meeting the requirements of Section 30-71(~~ca~~)(14)d;

2886 ii. Square feet designated (indoors or out) for each specific use;

2887 iii. Estimated employment;

2888 iv. Estimated number and type of service vehicles;

2889 v. Any unique facilities or structures proposed as part of site improvements; and

2890 vi. A description of any mitigative techniques to abate any possible adverse impacts of the
2891 proposed use on properties in the immediate vicinity including smoke, odor, noise, and other
2892 impacts.

2893 ~~ix. Application fee.~~

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2894 ~~(c) Review. The Planning and Zoning Board shall review the application and provide a recommendation~~
2895 ~~for approval, modified approval, or denial to the Town Commission. The Town Commission shall~~
2896 ~~follow the quasi-judicial procedures in the Code of Ordinances and shall, prior to taking action on a~~
2897 ~~conditional use application, hold a quasi-judicial public hearing. The Board and/or Commission may~~
2898 ~~impose conditions and safeguards, in addition to those prescribed in the Code, as they determine~~
2899 ~~are necessary for the protection of the surrounding area and to preserve the spirit and intent of the~~
2900 ~~Town Code and Comprehensive Plan. Notice of the public hearing shall be given and the hearing~~
2901 ~~shall be conducted as provided in the quasi-judicial procedures.~~

2902 (d) *Specific criteria for approving a conditional use.* A conditional use shall be permitted upon a finding
2903 by the Town Commission that the proposed use, as proposed or with additional conditions or
2904 modifications, satisfies the criteria herein specified. A conditional use shall be denied if the Town
2905 Commission determines that the proposed use does not meet the criteria herein provided or is
2906 adverse to the public interest. The Board and/or Commission may impose conditions and
2907 safeguards, in addition to those prescribed in the Code, as they determine are necessary for the
2908 protection of the surrounding area and to preserve the spirit and intent of the Town Code and
2909 Comprehensive Plan. The applicant shall demonstrate the following:

2910 (1) *Land use compatibility.* The conditional use, including its proposed scale and intensity, traffic
2911 generating characteristics, and off-site impacts shall be compatible and harmonious with
2912 adjacent land uses and shall not adversely impact land use activities and residential areas in
2913 the immediate vicinity.

2914 For purposes of a conditional use review, compatibility is defined as a condition in which land
2915 uses or conditions can coexist in relative proximity to each other in a stable fashion over time
2916 such that no use or condition is unduly negatively impacted directly or indirectly by another use
2917 or condition. Compatibility of land uses is dependent on numerous development characteristics,
2918 which may impact adjacent or surrounding uses. They include: type of use, density, intensity,
2919 height, general appearance and aesthetics, odors, noise, smoke, vibration, traffic generation
2920 and nuisances. The Town Manager shall recommend whether the conditional use is compatible.
2921 Compatibility shall be measured based on all of the following characteristics of the proposed
2922 use or development in relationship to surrounding development in the immediate area:

- 2923 i. Permitted uses, structures and activities allowed within the land use category;
- 2924 ii. Building location, dimensions, height, and floor area ratio;
- 2925 iii. Location and extent of parking, access drives and service areas;
- 2926 iv. Traffic generation, hours of operation, noise levels and outdoor lighting;
- 2927 v. Alteration of light and air;
- 2928 vi. Setbacks and buffers such as fences, walls, landscaping and open space treatment;
- 2929 vii. The architectural and site design are compatible with the character of the surrounding
2930 area; and

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- 2931 viii. Any existing or proposed signs or lighting will not adversely affect surrounding areas or
2932 vehicular traffic.
- 2933 (2) *Sufficient site size, site specifications, and infrastructure to accommodate the proposed use.*
2934 The size and shape of the site, the proposed access and internal circulation, and the urban
2935 design must be adequate to accommodate the proposed scale and intensity of the conditional
2936 use requested. The site shall be of sufficient size to provide adequate screening, buffers,
2937 landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure
2938 and similar site plan improvements needed to mitigate against potential adverse impacts of the
2939 proposed use.
- 2940 (3) *Compliance with the Comprehensive Plan and Code of Ordinances.* The conditional use shall
2941 comply with environmental, zoning, concurrency and other applicable regulations of this Code of
2942 Ordinances and shall be consistent with the Comprehensive Plan.
- 2943 (4) *Proper use of mitigative techniques.* The conditional use and site plan shall incorporate
2944 mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the
2945 design scheme shall appropriately address off-site impacts to ensure that land use activities in
2946 the immediate vicinity, including community infrastructure, are not burdened with adverse
2947 impacts detrimental to the general public health, safety and welfare.
- 2948 (e) *Conditional use approval amendments.* A conditional use approval is specific to the density and
2949 intensity of the proposed use, the particular site plan and any supplemental conditions approved.
2950 Unauthorized modification to a site plan or any of the specifics or conditions of the conditional use
2951 approval is a violation of the Town Code and subject to code enforcement action and/or revocation of
2952 the conditional use approved. Any proposed modification to the conditional use that affects density,
2953 intensity or minimum code requirements of the site development plan will require review and
2954 approval by the Town Commission.
- 2955 (1) The Town Manager shall determine if the request is a Level 1 Amendment or a Level 2
2956 Amendment. In deciding whether an application is a Level 1 or Level 2 Amendment, the Town
2957 Manager shall consider the requirements of Section 30-123(a)-(c)~~30-54(m)(4)c.~~ of the Code.
- 2958 (a) Level 1 Amendment: Shall be processed pursuant to the requirements for a Level 1 Review-
2959 Administrative Approval as set forth in Section 30-113. ~~Minor changes and deviations to an~~
2960 ~~approved conditional use may be approved, approved with conditions or modifications, denied,~~
2961 ~~or re-classified as a Level 2 Amendment, by the Town Commission, without Planning and~~
2962 ~~Zoning Board Review. If the Town Commission determines the modification is a Level 2~~
2963 ~~Amendment, it shall be processed pursuant to subsection (2) below. A change or deviation shall~~
2964 ~~be classified as a Level 1 Amendment, if it meets the criteria of section 30-54(m)(4)a. of the~~
2965 ~~Code. All other requested changes and deviations shall be processed as a Level 2 Amendment.~~
- 2966 (b) Level 2 Amendment: Shall be processed pursuant to the requirements for a Level 2 Review –
2967 Town Commission Approval as set forth in Section 30-113. ~~Changes and deviations to an~~
2968 ~~approved conditional use meeting the criteria of section 30-54(m)(4)b. of the Code, shall~~
2969 ~~constitute a Level 2 Amendment and shall require that the requested changes be subject to the~~
2970 ~~same procedure as required for a new application.~~

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- 2971 (f) *Continuing jurisdiction.* The Town Commission hereby reserves to itself the jurisdiction and authority
2972 to review and revoke conditional use permits where the use or the continuation of the use:
- 2973 (1) Violates the conditions set forth by the Town Commission as a requirement for the granting of
2974 the use;
- 2975 (2) Is injurious to the health, safety or welfare of the community or of the public;
- 2976 (3) Tends to attract vagrants, loiterers or habitually intoxicated persons; or
- 2977 (4) Has a history of repeated Code violations.
- 2978

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2979 **DIVISION 4. – ADJUSTMENTS TO THE CODE – PROCEDURES AND REQUIREMENTS**

2980 **Sec. 30-127. Variances procedures and requirements.** [moved from Section 30-8, parts of 30-8 were
2981 **included in the general application procedures in Article IV, Division 1; 30-127 previously reserved]**

2982 (a) *Purpose.* The purpose of this Section is to:

2983 (1) Provide for minimum standards for consideration of variance applications ~~for a variance and;~~

2984 (2) Provide for an orderly system of review of application for variances from the effect of zoning
2985 regulations on property within the Town in order to accord the owners and users of such
2986 property with the due process of law guaranteed by the Constitution of the United States of
2987 America and the State of Florida; and

2988 (3) ~~It is further the purpose hereof to~~ Provide for a set of procedures and standards to guide the
2989 ~~Town Administration~~ DSD, Board of Adjustment and Town Commission in the review of an
2990 application for variance and the approval or denial thereof.

2991 (b) *Application.* Application shall be made as provided in Section 30-112. ~~A request for a variance shall~~
2992 ~~be commenced by the filing of an application provided in subsection 30-8(e). Such applications shall~~
2993 ~~be filed with the Town Clerk, who shall submit the same to the Board of Adjustment for review and~~
2994 ~~recommendation thereon in accordance with the procedure established therefore.~~

2995 (c) *Recommendations of the Board of Adjustment.* ~~The Board of Adjustment shall conduct quasijudicial~~
2996 ~~hearings on applications for variances from the Town's land development regulations in accordance~~
2997 ~~with the procedures set forth in section 30-13 of the Town's Code of Ordinances.~~

2998 (1) The Board of Adjustment shall review applications for variances from the Town's Land
2999 Development Regulations in accordance with the procedures set forth in Article IV, Division 1 of
3000 this Chapter.

3001 (2) After receiving all relevant materials and information, the Board of Adjustment recommendation
3002 shall be by vote of a simple majority of the quorum present and voting.

3003 (3) Decisions of the Board of Adjustment are advisory to the Town Commission.

3004 (4) A recommendation for approval by the Board of Adjustment confers no legal right to the
3005 applicant in the absence of subsequent approval by the Town Commission.

3006 (d) *Action by Town Commission.*

3007 (1) ~~Recommendations of the DSD and the Board of Adjustment shall be reviewed by the Town~~
3008 ~~Commission during regular Town Commission meetings at the next available Town Commission~~
3009 ~~meeting after the Board of Adjustment written recommendation has been provided.~~

3010 (2) ~~Town Commission shall conduct a hearing de novo on the application for variance.~~

3011 (3) ~~The hearing de novo shall be a quasijudicial hearing.~~

3012 (4) ~~The Commission may, by motion, incorporate in its findings, findings of the Board of~~
3013 ~~Adjustment, provided such Board findings are reflected in the record of the Board hearing.~~

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- 3014 (1) The Town Commission shall make express findings on the elements necessary for the granting
3015 of a variance as provided in Subsection (e) below.
- 3016 (2) The decision of the Town Commission is not final until ~~20 days following~~ the filing of a ~~written~~
3017 development order with the Town Clerk which shall be recorded in the official records of
3018 Broward County.
- 3019 ~~(6) Decisions of the Town Commission may be reviewed only by writ of certiorari to the Circuit~~
3020 ~~Court of Broward County, Florida.~~
- 3021 (e) *Criteria for considering an "Application for a Variance."* In considering an application for a variance,
3022 an application shall be evaluated by considering the following criteria:
- 3023 (1) Special conditions and circumstances exist affecting the land, structure or building involved
3024 preventing the reasonable use of such land, structure or building.
- 3025 (2) The circumstances which cause the hardship are peculiar to the property or to such a small
3026 number of properties that they clearly constitute a marked exception to other properties in the
3027 district.
- 3028 (3) The literal interpretation of the provisions of the applicable regulation would result in a particular
3029 hardship upon the owner, as distinguished from a mere inconvenience.
- 3030 (4) The hardship is not self-created or the result of mere disregard for, or ignorance of the
3031 provisions of the regulations.
- 3032 (5) The variance is the minimum variance that will make possible the reasonable use of the
3033 property and that the variance will be in harmony with the general purposes and intent of the
3034 applicable zoning regulations and will not be injurious to the neighborhood or otherwise
3035 detrimental to the public welfare.
- 3036 (6) The grant of the variance does not permit a use not generally permitted in the district involved or
3037 a use expressly or by implication prohibited by the terms of the regulations of the district in
3038 which the affected property lies.
- 3039 (7) Financial hardship is not a basis for granting a variance unless the failure to grant the variance
3040 will render the property unusable as a permitted use in the zoning district in which the property
3041 lies.
- 3042 ~~(h) Conditions. In approving a variance, the Town Commission shall have authority to impose such~~
3043 ~~conditions as deemed necessary to protect the interests of the surrounding area and the health,~~
3044 ~~safety, morals, comfort, convenience, or welfare of persons residing or working in or adjacent to the~~
3045 ~~neighborhood.~~
- 3046 (f) *Duration.*
- 3047 (1) Such rights and privileges shall ~~also~~ be terminated at such time as designated in the conditions
3048 of the approval of the variance, or upon any interruption or cessation of the use permitted by the
3049 variance for one year or more.

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3050 (2) The Town shall have continuing jurisdiction over all variances and may revoke, modify or
3051 suspend the approval of the variance, after a public hearing before the Town Commission and
3052 notice given in the same manner as ~~in this section~~ required for approval of a variance under
3053 Article IV, Division 9 of this Chapter, under the following conditions:

- 3054 a. The variance was obtained by fraud or misrepresentation;
- 3055 b. The variance has been exercised contrary to the conditions of its approval; or
- 3056 c. The ~~use~~ exception permitted by the variance has been exercised so as to be
3057 detrimental to the public health, safety or welfare, so ~~or~~ as to constitute a nuisance.

3058 **Section 30-128. Administrative Adjustments.** [Moved from 30-10 (not yet codified); Previously
3059 reserved; Staff recommends reviewing the procedural requirements to see if they can be incorporated
3060 into the newly created Article IV; Division 1]

3061 (a) Purpose. The purpose of this Section is to establish ~~procedures and~~ standards for review of
3062 applications for Administrative Adjustments. As defined in the Administrative Adjustment
3063 Thresholds Table below, Class Level 1 Administrative Adjustments may be approved by the
3064 ~~Development Services Director or designee (DSD)~~ Town Manager, and Class Level 2 ~~##~~
3065 Administrative Adjustments require Town Commission approval.

3066 Administrative Adjustments are available for certain limited variations or adjustments to building
3067 or parking standards of the Code based on specific criteria, where the application of the standard
3068 creates practical difficulties in allowing development or redevelopment that otherwise advances
3069 the purposes served by the standards of this Code and the comprehensive plan, and is
3070 compatible with surrounding development.

3071 Administrative Adjustments can also support flexibility in development and redevelopment efforts
3072 encouraging design and compatibility equal to or better than that resulting from the strict
3073 application of the Code, in furtherance of the Architectural Design Standards of the Town and the
3074 desired Mid-Century Modern architectural style.

3075 (b) Eligibility. Developments located within any zoning district are eligible to apply for an
3076 Administrative Adjustment. The thresholds applicable to Class Level 1 and Class Level 2 ~~##~~
3077 Administrative Adjustments are shown in the following Table, Administrative Adjustment
3078 Thresholds.

3080

Administrative Adjustment Thresholds		
Building Standards that may be Adjusted	Maximum <u>Level Class</u> 1 Adjustment	Maximum <u>Level Class</u> <u>2</u> ## Adjustment

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Administrative Adjustment Thresholds		
Building Standards that may be Adjusted	Maximum <u>Level Class 1</u> Adjustment	Maximum <u>Level Class 2</u> Adjustment
<u>Setbacks for existing structures with no setback changes</u>	4ft-n/a	<u>30% or 5 feet, whichever is less</u>
<u>All other setbacks</u>	4ft-n/a	30% or 5 feet, whichever is less
Overhangs, roof cornices and eaves and exterior balconies	4ft-n/a	30% or <u>All other requests up to 5 feet, whichever is less</u>
Parking Standards	Up to 3 spaces or 10% of the minimum parking requirement, whichever is greater	All Other

3081

3082 (c) ~~Class Level 1~~ Administrative Adjustments

3083 (1) ~~Review.~~ A Level Class 1 Administrative Adjustment application shall be reviewed and
 3084 evaluated by the DSD, any other Town departments or staff the DSD determines are
 3085 applicable, and the Board of Adjustment. ~~The DSD shall submit his or her proposed~~
 3086 ~~determination and findings concerning the criteria for approval as set forth in Subsection (e)~~
 3087 ~~below, to the Board of Adjustment. The Board of Adjustment shall issue a finding in support of,~~
 3088 ~~or not in support of, the DSD's recommendation. The Board of Adjustment's finding may~~
 3089 ~~include recommended revisions or adjustments for the DSD's consideration prior to the DSD's~~
 3090 ~~final action.~~

3091 (2) ~~Final Action.~~ A ~~Class I~~ Administrative Adjustment may be approved or denied by the DSD after
 3092 consideration of the finding and recommendations of the Board of Adjustment, upon a finding
 3093 that the applicable criteria for approval have been met. ~~The DSD may modify the application or~~
 3094 ~~impose conditions of approval, including but not limited to restricting the amount of the~~
 3095 ~~adjustment to less than the maximum allowed by this Section or requested by an applicant.~~

3096 (3) ~~Notice.~~ Property owners within 300 feet of the subject property shall be provided notice of the
 3097 Board of Adjustment hearing in accordance with the quasi-judicial procedures set forth in the
 3098 Town Code of Ordinances.

3099 (d) Level Class 2 Administrative Adjustments

3100 (1) ~~Review of Adjustment of Parking.~~ An application for a Level Class 2 Administrative Adjustment
 3101 for Parking shall be accompanied by a parking report, prepared by the Town, analyzing existing

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3102 and future parking demands, the availability of underutilized public parking spaces, and traffic
3103 circulation.

3104 (2) *Review of Adjustment of Building Standards.*

3105 a. A ~~Level Class 2~~ **Class 2** Administrative Adjustment application shall be reviewed and evaluated
3106 by the DSD, any other Town departments or staff the DSD determines are applicable, and
3107 the Board of Adjustment.

3108 ~~b. The DSD shall submit his or her proposed recommendation and findings concerning the~~
3109 ~~criteria for approval as set forth in Subsection (e) below, to the Board of Adjustment. The~~
3110 ~~Board of Adjustment shall issue a finding in support of, or not in support of, the DSD's~~
3111 ~~recommendation. The Board of Adjustment's finding may include recommended revisions~~
3112 ~~or adjustments for the DSD's consideration prior to making a recommendation to the Town~~
3113 ~~Commission.~~

3114 ~~c. After consideration of the finding and recommendations of the Board of Adjustment, the~~
3115 ~~DSD shall make a recommendation to the Town Commission based on Section 30-125(e).~~
3116 ~~The DSD's recommendation may be for approval, denial or modification. The~~
3117 ~~recommendation may include conditions, including but not limited to, restricting the~~
3118 ~~amount of the adjustment to less than the maximum allowed by this Section or requested~~
3119 ~~by an applicant.~~

3120 ~~(3) Notice. Property owners within 300 feet of the subject property shall be provided notice of the~~
3121 ~~Board of Adjustment and Town Commission hearings in accordance with the quasi-judicial~~
3122 ~~procedures set forth in the Town Code of Ordinances.~~

3123 ~~(4) Approval.~~

3124 ~~a. A Class II Administrative Adjustment may be approved or denied by the Town~~
3125 ~~Commission, in accordance with the Quasi-Judicial procedures of the Town Code of~~
3126 ~~Ordinances, upon a finding that the applicable criteria for approval below have been met.~~
3127 ~~The Town Commission may modify the application or impose conditions of approval,~~
3128 ~~including but not limited to, restricting the amount of the adjustment to less than the~~
3129 ~~maximum allowed by this Section or requested by an applicant.~~

3130 ~~b. Approval of an application that seeks an administrative adjustment to a side setback,~~
3131 ~~which is adjacent to a developed property which does not meet the setback requirement~~
3132 ~~along the side adjacent to the applicant's proposed adjustment, requires the affirmative~~
3133 ~~vote of a minimum of four Commissioners.~~

3134 (e) Criteria for Approval

3137 (1) *Building Standards.* An Administrative Adjustment to Building Standards shall be approved
3138 only if the requested relief is within the limits specified in Administrative Adjustments
3139 Thresholds Table, and if the decision maker finds that there is competent substantial evidence
3140 in the record that all of the following standards are met:

3141 a. The Administrative Adjustment does not result in an increase in allowable density;

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- 3142 b. The Administrative Adjustment does not provide for building height that exceeds the
3143 zoning code standards;
- 3144 c. In no way does the Administrative Adjustment allow a structure's footprint to encroach
3145 upon an established recorded or platted easement and/or the Town's right-of-way;
- 3146 d. The Administrative Adjustment furthers a minimum of one of the following conditions:
- 3147 i. Required to compensate for some unusual aspect of the development site or the
3148 proposed development; or
- 3149 ii. Supporting an objective from the purpose statements of the zoning district where
3150 located; or
- 3151 iii. Proposed to protect sensitive natural resources or save healthy existing trees; or
- 3152 iv. Supports Mid-Century Modern Architecture; or
- 3153 v. Utilized to create a view corridor or other benefit to the Community; or
- 3154 vi. Required to legalize the existing nonconforming footprint, overhangs, roof cornices,
3155 eaves or exterior balconies; or
- 3156 vii. Required to allow a setback which matches the existing building's current side or rear
3157 setback, overhang, roof cornice, eave or exterior balcony; or
- 3158 viii. Required for an expansion, addition or modification to an existing structure where
3159 that expansion, addition, or modification will not increase the footprint of the existing
3160 structure.
- 3161 e. The Administrative Adjustment will not substantially interfere with the convenient and
3162 enjoyable use of adjacent lands, and will not pose a danger to the public health or
3163 safety.
- 3164 f. The requested Administrative Adjustment is not incompatible with the character of
3165 development in the surrounding area, and will not result in incompatible uses.
- 3166 g. Any adverse impacts, including but not limited to reductions in view corridors, resulting
3167 from the Administrative Adjustment will be mitigated to the maximum extent practicable.
- 3168 h. The Administrative Adjustment is consistent with the comprehensive plan.
- 3169 (2) *Parking Standards.* An Administrative Adjustment to Parking Standards may be approved, in
3170 whole or in part, upon a finding that there is sufficient available parking that is open to the
3171 public and is judged adequate to accommodate the parking reduction request within a
3172 reasonable walking distance of the subject property along a practical and usable pedestrian
3173 route.
- 3174 (f) Reporting

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3175 The Town Manager shall file a quarterly report on Administrative Adjustments with the Town
3176 Commission.

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3177 **DIVISION 5 - PLATTING AND SUBDIVISION PROCEDURES AND REQUIREMENTS** [moved from
3178 **Article III]**

3179 **Sec. 30- 129. - Purpose.** [moved from Section 30-101; 30-129 previously reserved]

3180 It is the purpose of this Article to establish procedures and requirements for obtaining Town
3181 Commission approval of a plat of land located within the Town limits.

3182 **Sec. 30- 130. - General provisions.** [moved from Section 30-101 and 30-102; 30-130 previously
3183 reserved]

3184 (a) *Map, plat; approval required.* No plat of lands lying within the Town of Lauderdale-By-The-Sea may
3185 be recorded in the official records of Broward County prior to review by the ~~development review~~
3186 ~~committee, Department~~, Planning and Zoning Board and approval by the Town Commission.

3187 (1) The owners of lots or parcels of lands within the corporate limits of the Town who shall
3188 subdivide or lay out such lots or grounds into a subdivision shall cause to be made an accurate
3189 map or plat of such subdivision in the manner provided by State Statutes.

3190 (2) The complete plat or map shall be submitted to the Town Commission for approval and, upon
3191 approval by ~~ordinance of the Town Commission and the Broward County Board of County~~
3192 ~~Commissioners~~, the plat may be recorded in the Office of the Clerk of the Circuit Court in and
3193 for the County immediately after its approval.

3194 (3) The map or plat so recorded shall thereupon constitute a sufficient conveyance to vest in the
3195 Town the fee title to the parcels of land described for streets, highways, alleys, parks,
3196 parkways, commons or other public uses, to be held by the Town in trust for the uses and
3197 purposes in the instrument set forth, expressed, designated and intended, and the ordinance of
3198 the Town Commission approving the map or plat shall have the force and effect of an
3199 acceptance of the streets, highways, alleys, parks, parkways, commons or other public uses
3200 therein contained.

3201 (4) No plat shall be accepted by the Town or approved by the Town Commission unless and until
3202 all taxes and improvement liens levied against the lands included in the plat shall have been
3203 paid and discharged and until the plat has been submitted to the ~~Development Review~~
3204 ~~Committee Department~~ and the Town Planning and Zoning Board.

3205 (b) *Filing of preliminary plat.*

3206 At least 45 days prior to filing an application for final plat approval from the Town Commission, the
3207 applicant shall file an application for preliminary plat review pursuant to the procedures of this Article.

3208 (c) *Notice to other agencies.*

3209 A copy of any written comments, reports or recommendations resulting from reviews conducted pursuant
3210 to this subsection shall be promptly forwarded to appropriate agencies and/or Broward County by the
3211 ~~DRQDSD~~.

3212 (d) *Compliance with comprehensive plan.*

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3213 An application for final plat approval shall comply with the applicable provisions of the elements of the
3214 Town's Comprehensive Plan.

3215 **Sec. 30-131. - Mandatory preliminary plat review.** [moved from Section 30-103; Section 30-131
3216 **previously Reserved]**

3217 ~~Procedures.~~

3218 ~~(1) An application for preliminary plat review shall be filed and processed pursuant to section 30-54~~
3219 ~~of this article.~~

3220 ~~(2) Preliminary development review report. Within nine working days of receiving the reviewing~~
3221 ~~agencies' staff reports, the DRO shall prepare a preliminary development review report on the~~
3222 ~~application. Such preliminary development review report shall be completed and available to the~~
3223 ~~applicant at least two working days prior to the Development Review Committee's review of the~~
3224 ~~application.~~

3225 (a) *Submission requirement.*

3226 An application for preliminary plat review shall be accompanied by ~~an application and a~~ preliminary plat
3227 for development, the overall size of which shall be 24 inches by 36 inches, drawn at a scale no smaller
3228 than one inch equals one foot except when a smaller scale is approved by the Broward County Highway
3229 Construction and Engineering Division, Plat Section, and which shows the following:

3230 (1) Proposed subdivision name or identifying title. Such name shall not be the same or in any way
3231 so similar to any name appearing on any recorded plat in Broward County as would confuse the
3232 records or mislead the public as to the identity of the subdivision, except when an existing
3233 subdivision is subdivided as an additional unit or section by the same developer or his
3234 successors in title.

3235 (2) A plat location sketch.

3236 (3) North arrow, scale and date.

3237 (4) Name of the owner of the property or the owner's authorized agent.

3238 (5) Name of the registered surveyor responsible for the plat.

3239 (6) Lots and blocks of adjacent recorded plats, giving plat book and page number along with names
3240 of such plats.

3241 (7) Plat limits with angles and distances. Plat limits must be clearly marked with a heavy line.

3242 (8) All existing watercourses, canals and bodies of water within or adjacent to the plat limits.

3243 (9) All existing streets and alleys on or adjacent to the tract, including name and right-of-way width.

3244 (10) The legal description of the property being platted.

3245 (11) All existing easements and rights-of-way within or adjacent to the plat limits and the purposes
3246 for which the easements or rights-of-way have been established, where known to the surveyor.

3247 (12) Location and width of all proposed ultimate rights-of-way, alleys, easements; proposed lot lines
3248 with dimensions, public areas, and parcels of land proposed or reserved for public use.

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3249 (13) If the development abuts a trafficway, proposed points of access to the trafficway.

3250 (14) Access to a public right-of-way that will be utilized by the proposed development.

3251 (b) ~~Department Committee~~ review.

3252 Prior to issuance of ~~the a~~ recommendation to proceed, the ~~Development Review Committee~~ Department
3253 shall review the application for preliminary plat review for conformity with the requirements for final plat
3254 approval of this Chapter and shall compile a list of those corrections and additions, if any, to the
3255 preliminary plat which must be made by the applicant in order to receive a recommendation to ~~approve an~~
3256 ~~application for final plat approval by the Development Review Committee~~ proceed with a final plat
3257 approval.

3258 (c) *Issuance of recommendation to proceed.*

3259 The Department shall complete its review of the preliminary site plan application within the time period set
3260 forth in Section 30-113 of this Article. Within 50 calendar days from the acceptance of an application for
3261 preliminary plat review, and the DRO DSD shall issue to the applicant a recommendation to proceed with
3262 an application for final plat approval. The recommendation to proceed shall indicate those corrections and
3263 additions established by the Development Review Committee Department as necessary to receive a
3264 recommendation to approve an application for final plat approval.

3265 (d) *Effect of recommendation to proceed.*

3266 (1) A DSD recommendation to proceed with an application for final plat approval shall have full
3267 force and effect for a period of six (6) months from the date of the ~~Development Review~~
3268 ~~Committee meeting at which the preliminary plat was reviewed~~ DSD issuance of the
3269 recommendation.

3270 (2) If an application for final plat approval is filed, based on a preliminary plat subject to an effective
3271 recommendation to proceed, said application shall include the additions and corrections
3272 required by the recommendation to proceed, or be deemed an incomplete application for the
3273 purposes of ~~Subsection 30-54 (a)~~ 30-113 of this Article.

3274 (3) An applicant may submit a written request for a two-month extension of the effective six-month
3275 time period of the recommendation to proceed for ~~the a~~ preliminary plat issued pursuant to
3276 ~~Subsection 30-103~~ 30-130(d). If such request for an extension is filed prior the expiration of the
3277 original six-month period, the DSD shall extend the effective date of the recommendation to
3278 proceed for an additional two months. If a written request for an extension is not submitted prior
3279 to the expiration of the effective period, the recommendation to proceed shall have no force and
3280 effect. If extended, a complete application for final plat review shall be filed within the two-
3281 month extension period or the recommendation to proceed shall have no force or effect.

3282 **Sec. 30-132. - Final plat approval; procedural requirements. [moved from Section 30-104; Section 30-**
3283 **132 previously Reserved]**

3284 (a) *Submission requirements.* An application for final plat approval shall include the following documents
3285 and be delivered to the ~~DRO~~ DSD; the final plat linen, an original title certificate or an attorney's opinion of
3286 title, tax letter or receipt from the Broward County Revenue Collection Division for tax letter preparation,
3287 subdivision plat filing form, plat review service charge form, review fee, and one blueprint of the plat. The
3288 final plat linen shall be an original drawing, prepared pursuant to F.S. ch. 177, and containing original
3289 signatures. The overall size shall be 24 inches by 36 inches, with proper borders clear of all writing except

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3290 for the space for plat book and page, and the Broward County Office of Planning and Environmental
3291 Regulation plat file number, drawn to a scale no smaller than one inch equals 100 feet, except when a
3292 smaller scale is approved by the Broward County Highway Construction and Engineering Division, Plat
3293 Section, and showing the following additional information:

- 3294 (1) Space for signature of the Chairman of the County Commission.
- 3295 (2) Space for signature of County Administrator.
- 3296 (3) Space for Engineering Division Director's signature and seal.
- 3297 (4) Signature of designated municipal official ~~except where the plat is within a compact deferral~~
3298 ~~area~~. This requirement may be met before final Broward County plat approval.
- 3299 (5) Space for County Surveyor's signature and seal, if applicable.
- 3300 (6) Space for approval of Broward County Planning Council.
- 3301 (7) Plat location sketch.
- 3302 (8) The parcel encompassed by the legal description shown on the plat shall be clearly identified
3303 with a heavy line, dimensions and courses, with independent ties to two or more land corners,
3304 or to a recorded subdivision, and one land corner.
- 3305 (9) Space for plat book and page number outside the border in the upper right hand corner of each
3306 page.
- 3307 (10) Plat file number as assigned by ~~the Broward County Office of Planning, Development~~
3308 ~~Management Division~~, outside the border in the lower right hand corner of each page.
- 3309 (11) Notes or legend and any tabular data or other data pertinent to the plat, on each page that
3310 contains the drawing.
- 3311 (12) Executed dedication and acknowledgement.
- 3312 (13) Executed mortgage approval and acknowledgement.
- 3313 (14) Adjacent streets.
- 3314 (15) All plat dimensions shall be shown accurate to 0.01 of a foot, except for riparian boundaries,
3315 which may be shown as approximate with a witness line showing complete dimension data.
3316 Rows of lots with the same dimensions may use ditto marks providing the first and last lots in
3317 the row are appropriately dimensioned.
- 3318 (16) Computation of the square footage of each parcel of land and the acreage of the land proposed
3319 to be platted accurate to the nearest square foot. All survey and survey information shall be
3320 certified by a land surveyor licensed in the State of Florida.
- 3321 (17) At least two benchmarks referenced to the National Geodetic Vertical Datum of 1929 of the
3322 Broward County Vertical Network in conformity with the standards adopted by the National
3323 Ocean Survey for Third Order Vertical Control. No benchmark shall be established purporting to
3324 be based on the National Geodetic Vertical Datum or the Broward County Vertical Network
3325 unless the benchmark is certified by a surveyor licensed in the State of Florida and such
3326 certification is shown on the plat. The benchmarks shall be of a permanent nature, easily
3327 accessible, located within, along or within 200 feet of the plat boundary and described by ties to
3328 the plat boundary. The plat shall list in the plat notes benchmarks were established. Only

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- 3329 benchmarks established by Federal, State, County or municipal governments shall be
3330 acceptable as the starting benchmark.
- 3331 (18) The plat shall be restricted to grid bearings or azimuths, state plane coordinates shown on all
3332 permanent reference monuments and all land ties where the plat lies within sections assigned
3333 state plane coordinates that have been recorded in the public records of Broward County.
3334 Coordinates may be tabulated when necessary for legibility, and must appear on each page that
3335 contains the drawing. State plane coordinates shall be derived from field measurements in
3336 conformity with the Minimum Technical Standards for Land Surveying pursuant ~~Chapter 24,~~
3337 ~~Section 21HH-6, Florida Administrative Code, adopted by the Florida Board of Land Surveyors,~~
3338 ~~September 1, 1984~~ to Rule 5J-17 Florida Administrative Code and to Florida Statutes Chapter
3339 472.072.
- 3340 (19) A mathematical closure of the plat boundary shall not exceed 0.03 of a foot.
- 3341 (20) Copies of approved certified corner records shall be submitted to the County Land Surveyor
3342 prior to plat recordation unless approved certified corner records are on file with the State of
3343 Florida Department of ~~Natural Resources~~ Environmental Protection pursuant to F.S. ch. 177, pt.
- 3344 (21) The surveyor's certificate shall state conformity with:
- 3345 a. F.S. ch. 177;
- 3346 b. National Geodetic Vertical Datum (NGVD) and National Ocean Survey Third Order Vertical
3347 Control Standards;
- 3348 c. Applicable sections of Chapter 21 HH-6 Rule 5J-17 Florida Administrative Code pursuant
3349 to Florida Statutes Chapter 472.072.
- 3350
- 3351 (b) *Application for final plat approval.* ~~An application for final plat approval application shall be submitted~~
3352 ~~to the DRO accompanied by a valid preliminary plat recommendation to proceed and receipts of~~
3353 ~~acceptance from the Broward County Highway Construction and Engineering Division and Broward~~
3354 ~~County Environmental Quality Control Board.~~
- 3355 **[The text deleted below is replaced with the general application procedures in Article IV, Division 1]**
- 3356 ~~e) Procedural requirements.~~
- 3357 (1) ~~— An application for final plat approval shall be filed and processed pursuant to subsections 30-~~
3358 ~~54(a)(1), (f), (g) and (j) — (l) of this article.~~
- 3359 (2) ~~— If a notice of incompleteness is sent, the applicant may resubmit the application with the~~
3360 ~~additional data required, in which event the DRO shall review the resubmitted application in the manner~~
3361 ~~provided in this subsection for the original application.~~
- 3362 (3) ~~— If a written authorization to proceed, as provided for in subsection 30-54(j), is not received within~~
3363 ~~30 calendar days of issuance of the notification of preparedness, provided for in subsection 30-54(i), or~~
3364 ~~within the effective period of the recommendation to proceed, whichever is later, the application for final~~
3365 ~~plat approval shall be deemed withdrawn.~~
- 3366 (4) ~~— Upon acceptance of the application for final plat approval, the DRO shall forward to the reviewing~~
3367 ~~agencies set out in subsection 30-54(b) of this article, a copy of the application. The agencies shall~~
3368 ~~prepare a staff report amending or affirming their comments on the preliminary plat application, and~~

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3369 forward such staff report to the DRO within nine working days of transmittal by the DRO of the application
3370 copy and accompanying material.

3371 ~~(5) Within five working days of acceptance of the application for final plat approval, the DRO shall~~
3372 ~~forward to the applicant a determination as to whether the proposed plat falls within or creates a compact~~
3373 ~~deferral area. This determination shall be made based upon the day on which the accepted application~~
3374 ~~was received. A notification that a proposed plat falls within or creates a compact deferral area shall~~
3375 ~~require the applicant to comply with the concurrency requirements of Broward County for compact~~
3376 ~~deferral areas.~~

3377 ~~(6) Within six working days of receipt of all the agency staff reports, the DRO shall prepare a written~~
3378 ~~final development review report with proposed findings and a recommendation. Within 21 calendar days~~
3379 ~~of acceptance of the application for final plat approval, the DRO shall forward to the applicant a~~
3380 ~~notification of readiness, stating that the application is ready to be presented to the Planning and Zoning~~
3381 ~~Board and Town Commission.~~

3382 **Sec. 30-133. - Final plat approval; development review requirements. [moved from 30-105]**

3383 ~~An application for final plat approval for lands within the Town shall comply with the development~~
3384 ~~review requirements as described in Article II of this Land Development Code. Town Commission~~
3385 ~~approval on final plats is contingent on a satisfactory assessment of the criteria and level of service~~
3386 ~~standards as detailed in Article II of the Land Development Code required by this Chapter.~~

3387 **Sec. 30-134. - Presumptions, limitations, agreements and security for development review**
3388 **requirements. [moved from Section 30-72; Section 30-134 previously Reserved]**

3389 (a) *Notation on the face of the plat.*

3390 The face of each recorded plat shall bear a notation indicating the developmental level at which the
3391 plat was reviewed and approved for adequacy of required services and facilities pursuant to this ~~article~~
3392 Chapter. The notation shall include the following language:

3393 This note is required by Broward County and may be amended by approval of the Broward
3394 County Board of County Commissioners.

3395 The notation and any amendments thereto are solely indicating the approved development level
3396 for property located within the plat and do not operate as a restriction in favor of any property
3397 owner including an owner or owners of property within this plat who took title to the property with
3398 reference to this plat.

3399 (1) An application for a change to the notation on the face of a plat may be granted if the
3400 Town of Lauderdale-By-The-Sea and Broward County Board of County Commissioners make a
determination that the amendment is consistent with the terms of this Article.

3401 (2) The applicant for a change to the notation on the face of a plat shall be required to
3402 execute or provide such documents as determined necessary to amend the notation.

3403 (3) Failure to comply with the conditions, established by the Town and the Board of County
3404 Commissioners as a prerequisite to recording an amendment to the notation on the face of a
plat, within six months of the date on which the amendment is approved shall result in the
expiration of the approval to amend the notation. This shall apply to amendments approved
before October 1, 1989, provided that the six months shall run from October 1, 1989.

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3405 (b) *Impact agreement.*

3406 (1) In lieu of the dedication of lands or the payment of fees in lieu of dedication as calculated under
3407 the specific standards of this Article, or if compliance with one or more sections of this Article,
3408 can be ensured only if the nature and scope of the proposed development is identified by
3409 means other than that provided in Subsection ~~30-133(a)~~~~30-72(a)~~, any applicant may propose to
3410 enter into an impact agreement with the County designed to establish just and equitable fees or
3411 their equivalent and standards for service needs appropriate to the circumstances of the specific
3412 development proposed.

3413 (2) Any agreement proposed by a developer pursuant to this Subsection shall be presented to the
3414 County Commission prior to the issuance of a development order. Any such agreement may
3415 provide for execution by mortgagees, lienholders or contract purchasers in addition to the
3416 landowner, and may permit any party to record such agreement in the official records of
3417 Broward County. The County Commission shall approve such an agreement only if it finds that
3418 the agreement will apportion the burden of expenditure for new facilities in a just and equitable
3419 manner, consistent with the principles set forth in *Contractors and Builders Association v. City of*
3420 *Dunedin*, 329 So. 2d 314 (Fla. 1976).

3421 (c) *Installation of improvements.*

3422 (1) All improvements required from the developer as a condition to the approval of an application
3423 for a development order shall be installed and completed before the issuance of a development
3424 permit. Any water, sewer or drainage improvements proposed or required to be constructed
3425 within the proposed road right-of-way shall be installed and completed before acceptance of any
3426 proposed or required road improvements by the Town.

3427 (2) As an alternative to all required improvements being installed and completed prior to the
3428 issuance of a development permit, and provided that all other applicable requirements of this
3429 Article are met, the applicant shall provide, in a form acceptable to the Town Commission, a
3430 cash bond, a surety bond executed by a company authorized to do business in the State of
3431 Florida, an agreement between the developer and the appropriate local governmental unit with
3432 sufficient assurances that the improvements will be completed, or an irrevocable letter of credit,
3433 in sufficient amount to ensure the completion of all required improvements, and providing for
3434 and securing to the public the actual construction and installation of said required improvements
3435 within a reasonable period of time or before issuance of building permits or certificates of
3436 occupancy as required by the Town Commission and expressed in the bond or other security.

3437

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3438 ***DIVISION 6 - REZONING PROCEDURES AND REQUIREMENTS*** [moved from Section 30-11; Section
3439 ***30-135 previously Reserved***]

3440 **Sec. 30-135. - Procedures and requirements for rezoning.**

3441 (a) *Purpose.* It is the purpose of this Section to establish procedures and requirements for the rezoning
3442 of lands within the Town.

3443 (b) *Application process.*

3444 (1) An application for a change of zoning district boundaries, a change of zoning district for any plot
3445 or an amendment to this Chapter may be filed at the initiation of the Town Commission and the
3446 owner of the property which is the subject of the change or said owner's designee.

3447 (2) Requirement for referendum vote:

3448 a. Residential zoning districts including, but not limited to, R-5, RS-4, RS-5, RD-10, RM-15,
3449 RM-16, RM-25 and PUD as of March 20, 2006, may not be re-zoned for any other use
3450 whatsoever except by a referendum vote of the registered voters of the Town in the
3451 manner established in Article IV, Section 4.7, of the Town Charter.

3452 b. The Town may not create new categories of zoning without approval of such categories by
3453 a similar referendum vote; and all provisions of such new categories of zoning must be
3454 submitted to the voters for approval.

3455 (3) The Town Commission shall hold hearings on the application as required for the adoption of
3456 ordinances as set forth in F.S. § 166.041, as it may be amended from time to time. The Town
3457 Commission at a regularly scheduled meeting, which is held after review of the application by
3458 the Planning and Zoning Board, shall hear the first reading of the ordinance approving the
3459 application. After considering all relevant information, including recommendations from the
3460 Planning and Zoning Board and comments from the public, the Town Commission shall either
3461 approve the application on first reading with or without conditions, stipulations, restrictions or
3462 limitations as are reasonably required to achieve the purpose of this Chapter or deny the
3463 application. If the ordinance approving the application is denied on the first reading, the
3464 application shall be deemed denied. If the ordinance approving the application is approved on
3465 the first reading, then a second reading shall be scheduled. At the second reading of the
3466 ordinance approving the application, the Town Commission, after considering all relevant
3467 information, including the recommendations of the Planning and Zoning Board and comments
3468 from the public, shall either approve the application as presented, approve the application with
3469 conditions, stipulations, restrictions or limitations reasonably required to achieve the purpose of
3470 the ordinance or deny the application.

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- 3471 (c) *Standards, guidelines and review criteria.* With respect to any pending legislation concerning a
3472 rezoning or amendment or supplement to these regulations, the reviewing agency(ies) shall consider
3473 and evaluate changes in relation to all pertinent factors, including, but not limited to, the following:
- 3474 (1) The character of the district and its peculiar suitability for particular uses as well as the
3475 compatibility of the district with surrounding districts and uses and the impact upon neighboring
3476 communities and residences.
- 3477 (2) Conservation of the value of buildings and encouraging the most appropriate use of land and
3478 water throughout the Town.
- 3479 (3) The applicable portions of any current municipal plan and programs, such as land use,
3480 trafficways, recreation, schools, neighborhoods, drainage and housing.
- 3481 (4) The needs for the Town for land areas for specific purposes to serve population and economic
3482 activities.
- 3483 (5) Whether there have been substantial changes in the character of development of areas in or
3484 near the area under consideration.
- 3485 (6) The facts and opinions presented to the reviewing agencies through public hearings.
- 3486 (7) The anticipated impact of the developmental proposal or the maximum development
3487 permissible under the requested zoning upon the natural environment, the economy, the
3488 housing market and existing and programmed public facilities and services, both within and
3489 beyond the property.
- 3490 (8) The impact of the proposed development on the existing road network.
- 3491 (9) The impact of the proposed development on the Town road network and the ability of the
3492 existing (which shall include planned and funded improvements) to service the proposed
3493 development or number of units sought.
- 3494 (10) Consistency with the comprehensive plan.
- 3495 (11) Compatibility and consistency with abutting land use, developments, zoned property, and
3496 platted property and the impact on said properties.
- 3497 (d) *Application requirement.*
- 3498 (1) An application for an amendment to a provision of this Chapter shall contain information
3499 sufficient in detail to reasonably appraise the Town Manager, the Planning and Zoning Board,
3500 and the Town Commission of the nature and substance of the proposed amendment and the
3501 reasons therefore.

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- 3502 (2) An application for the rezoning of a particular parcel of land other than an application initiated by
3503 a Town agency shall contain the following:
- 3504 a. Proof of ownership of the property; and if the owner is not the applicant, proof of the
3505 applicant's authority to make such application.
- 3506 b. A survey or sketch and description of the property.
- 3507 c. Other information as required on an application form to be prepared by the Town Manager.
- 3508 (e) *Notification requirements.* Notification requirements shall be in a method described in accordance
3509 with Section 30-138 – Notice of Public Hearings ~~the Town code of Ordinances for quasijudicial~~
3510 ~~proceedings as amended from time to time.~~

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3511 ***DIVISION 7- VESTED RIGHTS DETERMINATION PROCEDURES AND REQUIREMENTS***

3512 ***Sec. 30-136. - Vested rights determinations.*** [moved from Section 30-12 and Section 30-(54(n); Section
3513 ***30-136 previously Reserved]***

3514 (a) The Town recognizes that certain land development rights of property owners may be vested with
3515 respect to approved land uses, density or intensity of development and/or staging or phasing of
3516 development. Any person claiming vested rights to develop property shall make application for a
3517 vested rights determination which shall be processed in accordance with Section 30-113 of this
3518 Article.

3519 (1) ~~The Town Manager or his or her designee shall review the application and any supporting~~
3520 ~~documents and shall consult with other staff and the Attorney's Office Within 45 days after the~~
3521 ~~receipt of a complete and sufficient application, the Town Manager or his or her designee~~
3522 ~~following which the Town Manager shall either grant the application for vested rights or respond~~
3523 ~~to the applicant in writing providing the reason or reasons for denial. The decision shall be~~
3524 ~~mailed by U.S. Mail to the address indicated on the application, return receipt requested.~~

3525 (2) Appeal of vested rights determination. If the applicant disagrees with the determination of the
3526 Town Manager, he or she may appeal the decision of the staff by notifying the Town in writing
3527 that he or she is appealing the decision. The notification shall be received by the Town no later
3528 than 30 days after the Town "renders" his or her decision on the application. If the notification is
3529 not received within 30 days after rendition of the decision, the applicant is deemed to have
3530 waived his or her right to challenge the decision. For the purposes of this section, the term
3531 "renders" means the date the applicant initials or otherwise indicates receipt of the decision.
3532 However, in the event the decision is not accepted or is returned, the term in accordance with
3533 Article IX Administrative Appeals of this Chapter.

3534 (3) ~~Upon receipt by the Town of a timely notice of appeal, the appeal shall be assigned to a~~
3535 ~~Hearing Officer. The procedures for conducting hearings shall be approved by a resolution of~~
3536 ~~the Town Commission. The hearing shall be set for no later than 60 days from the date of the~~
3537 ~~notice of appeal unless an extension of time is requested or agreed to by the applicant.~~

3538 (4) ~~The Town Attorney shall represent the Town in the administrative hearing. The Hearing Officer~~
3539 ~~shall determine whether vested rights have been created pursuant to the provisions set forth~~
3540 ~~within this section, applicable statutes, or established case law and shall determine whether any~~
3541 ~~time limitation is applicable to such vested rights.~~

3542 (5) ~~Nothing in this section prohibits the Town staff from reconsidering and reversing a denial of a~~
3543 ~~vested rights application at any time prior to the start of the hearing before the Hearing Officer.~~

3544 (6) ~~The Hearing Officer shall within 45 days of the hearing issue a proposed order which shall~~
3545 ~~include findings of fact and conclusions of law with respect to the claim of vested rights.~~

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3546 ~~(7) The Town Commissioners shall within 30 days of receipt of the proposed order issue its~~
3547 ~~determination which shall be in the form of a resolution.~~

3548 (b) Existing agreements giving rise to vested rights:

3549 (1) ~~Existing agreements giving rise to vested rights:~~ The Town of Lauderdale-By-The-Sea
3550 recognizes that certain property owners or developers may have a claim to a vested right based
3551 upon agreements with the Town entered into prior to March 14, 1989, the adoption date of the
3552 1989 Lauderdale-By-The-Sea Comprehensive Plan. The Town recognizes that such rights
3553 would arise in a circumstance where:

3554 a. All regional roads.

3555 1. The agreement provided for the developer to undertake or fund a road improvement
3556 which exceeded the developer's obligation under any plat approval; and

3557 2. The agreement contains language or evidences of the intent that construction of the
3558 road improvement would satisfy the developer's obligation to ensure the adequacy of
3559 the regional road network with regard to specified development on a described parcel
3560 which was not undergoing platting; and

3561 3. The developer acted in reliance upon the agreement and is not in default of the
3562 provisions of the agreement.

3563 b. Specific road segment.

3564 1. The agreement provided for the developer to undertake a road improvement which is
3565 unrelated to plat approval; and

3566 2. The developer did not receive payment or credit for such improvement since it was
3567 determined that the road would be required to provide safe and adequate access to
3568 the unplatted property; and

3569 3. The developer constructed the road to service his development without any
3570 compensation; and

3571 4. In such circumstances the vested trips on the road segment constructed by the
3572 developer shall not exceed the lesser of the number of trips the road improvement can
3573 accommodate at level of service D or the number of trips generated on the segment
3574 by the intensity or density of development specified in the agreement.

3575 (2) Entitlement to impact fee credits pursuant to an agreement shall not, of itself, constitute a basis
3576 for vesting a development or the trips represented by the impact fee credits.

3577 (3) It is recognized that there may be additional circumstances where some vested rights have
3578 arisen which are not specified in Subsections(1)a. or b.

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- 3579 (4) Procedure for claiming vested rights.
- 3580 a. Any property owner or developer may seek a vested rights determination regarding a
3581 specific unplatted parcel for which additional intensity or density is sought.
- 3582 b. Requests for vested rights determination shall be made on forms provided by the
3583 ~~DRQDSD~~. The developer shall be required to state the parcel for which the vested rights
3584 determination is sought, the basis for the vested rights claim, and shall provide a copy of
3585 the agreement or other document which the developer asserts gives rise to a vested rights
3586 determination.
- 3587 c. After the developer has submitted a complete application for a vested rights determination
3588 to the ~~DRQDSD~~ it shall be forwarded to the Town's Attorney for review.
- 3589 d. A Hearing Officer shall be appointed to conduct an administrative hearing regarding the
3590 vested rights determination. The hearing shall be set for no later than 60 days from the
3591 date of application unless an extension of time is requested or agreed to by the applicant.
- 3592 e. The Town Attorney shall represent the Town in the administrative hearing. The Hearing
3593 Officer shall determine whether vested rights have been created pursuant to statute or
3594 established case law.
- 3595 f. If the Town's Attorney, any time before the hearing, reviews the application and finds that
3596 the application has provided clear evidence that vested rights claimed by the developer
3597 exist, the Town Attorney and the applicant may stipulate to the existence of vested rights.
3598 Such stipulation shall eliminate the need for a determination by the Hearing Officer.
- 3599 g. If vested rights are stipulated to or found by the Hearing Officer, the trips attributable to
3600 such vested rights shall be placed within the Broward County TRIPS system and shall be
3601 available to the benefitted property for a period of five years.
- 3602 h. A determination by the Hearing Officer that vested rights have not arisen shall be
3603 determined to be a final decision of the ~~County~~ Town.

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3604 ***DIVISION 8 - NON CONFORMING USES AND STRUCTURES***

3605 **Sec. 30-137. Nonconforming uses and structures.** [was previously Section 30-21]

3606 (a) *Existing uses and structures.*

3607 (1) Any lawful use or structure, excluding signs, existing on the effective date of this Chapter and
3608 which by the terms thereof has become a nonconforming use or structure is hereby declared
3609 not to be in violation at this Chapter's effective date.

3610 (2) The ~~foregoing~~ provisions of this Division Article shall also apply to buildings, structures, land,
3611 premises or uses which hereafter become nonconforming due to a change or a reclassification
3612 of district or become nonconforming due to a change in district regulations.

3613 (3) Such a nonconforming use or structure shall be subject to all of the provisions of this Section
3614 pertaining to its continuance, change and discontinuance and Section 7.1 of the Town Charter.

3615 (4) ~~Construction.~~ These regulations shall not be deemed to require a change in the plans,
3616 construction or designated use of any building on which actual construction was lawfully begun
3617 prior to the effective date of the passage of or amendment to these regulations and upon which
3618 actual building construction has been diligently carried on. In no event shall the time of such
3619 construction exceed a period of ~~one~~ eighteen months~~year~~ except upon approval of the Town
3620 Commission.

3621 (5) *Unlawful use or structure not authorized.* Nothing in this Chapter shall be interpreted as
3622 authorization for or approval of:

3623 a. The continuation of the use of a structure or premises established in violation of any
3624 ordinance in effect at the ~~effective date~~ it was established of this chapter; or

3625 b. The continuation of a structure or building which did not comply with the requirements and
3626 conditions of a variance approval or conform to the land development regulations for
3627 minimum lot area and dimension, minimum yard setback requirements, maximum building
3628 height, total floor area, lot coverage, square footage, density and minimum floor area
3629 requirements or other characteristics of the structure, or its location on the lot, which were
3630 in effect at the date the building or structure was constructed.

3631 (6) When a period of time is specified in this Division Article for the removal or discontinuance of
3632 nonconforming buildings, structures or uses, said period shall be computed from the effective
3633 date of such reclassification or change of regulations.

3634 (b) *Nonconforming use.*

3635 (1) ~~Continuance of nonconforming uses and structures.~~ Any legal nonconforming use or structure
3636 may be continued in accordance with the requirements of this section and Section 7.1 of the
3637 Town Charter.

3638 (2) Extensions of nonconforming use.

3639 a. The nonconforming use of a building may be extended throughout any part of a building
3640 clearly designed for such use but not so used at the effective date of this Chapter.

3641 b. Any nonconforming use which occupied a portion of a building not ~~originally~~ designed or
3642 intended for such use shall not be extended to any other part of the building.

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- 3643 c. No nonconforming use shall be extended to occupy any land outside the building on the
3644 same plot not used for such nonconforming use of land at the effective date of this
3645 Chapter.
- 3646 d. The nonconforming use of land shall not be extended to any additional land not so used at
3647 the effective date of this Chapter.
- 3648 (3) ~~Structure containing nonconforming use, repair, alteration, enlargement of structure.~~
- 3649 a. Safety and sanitation applicable. Nothing in this Article shall prevent or excuse
3650 compliance with applicable laws or resolutions relative to the safety and sanitation of a
3651 building occupied by a nonconforming use.
- 3652 b. Repair, alteration, enlargement of structure. No structure utilized for a nonconforming use
3653 shall be enlarged, extended, reconstructed or structurally altered unless the use is
3654 changed to one which complies with the provisions of this Chapter, ~~except; provided that~~
3655 ~~limited repairs, maintenance and improvements may be carried out as provided below in~~
3656 ~~any 12-month period in an amount not to exceed 25 percent of the assessed value of the~~
3657 ~~structure for that year, and provided that such work does not increase the cubical content~~
3658 ~~of the building nor the floor area devoted to the nonconforming use or increase the number~~
3659 ~~of dwelling units.~~
- 3660 1. Work valued 50% or less within a year. On any building devoted in whole or in part to
3661 any nonconforming use, work may be done in any period of 12 consecutive months
3662 on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or
3663 plumbing to an extent not to exceed ~~50~~25 percent of the current replacement cost
3664 ~~assessed value~~ of the building; provided, that the following are not increased:
- 3665 i. cubic volume of the building, as it existed at the time of passage of or
3666 amendment to these regulations;
- 3667 ii. floor area devoted to the nonconforming use; and
- 3668 iii. number of dwelling units above those otherwise permitted.
- 3669 ~~Reconstruction after catastrophe~~
- 3670 2. Damage exceeding 50% of value. ~~If any nonconforming structure or if any building in~~
3671 ~~which there is a nonconforming use is damaged by fire, flood, explosion, collapse,~~
3672 ~~wind, war or other catastrophe to such an extent that surpasses 50 percent of the~~
3673 ~~replacement cost of the building or structure, it shall not be again used or~~
3674 ~~reconstructed except in full conformance with all applicable land development~~
3675 ~~regulations and Section 7.1 of the Town Charter.~~
- 3676 (4) Change of nonconforming use.
- 3677 a. In any residential district, any change of a nonconforming use in a conforming building
3678 shall be to a conforming use.
- 3679 b. In a residential district, a nonconforming use ~~and in~~ a nonconforming building shall be
3680 changed only to a use permitted in the particular residential district involved, except as
3681 provided in subsection (e)(4) below.
- 3682 c. Any change of a nonconforming use of land shall be to a conforming use, except as
3683 provided in subsection (e)(4) below.
- 3684 d. ~~There may be a c~~Change of tenancy, ownership or management of a nonconforming use
3685 is allowed, provided that there is no change in the specific character of such
3686 nonconforming use except as may be permitted by this Chapter. For example, a

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3687 nonconforming professional office may continue as a nonconforming professional office
3688 after a change in tenancy, ownership or management, but may not continue as another
3689 commercial or business use unless those uses are permitted by the Code in effect at the
3690 time of the change. Likewise, a retail store may continue as another type of retail store, but
3691 not as a laundromat or other type of service establishment if such uses are not permitted
3692 by the Code in effect at the time of the change.

3693 (5) *Discontinuance or abandonment of a nonconforming use.*

3694 a. If for any reason a nonconforming use of land ceases or is discontinued for a period of
3695 more than 60 days, the land shall not thereafter be used for the same or any other
3696 nonconforming use.

3697 b. If for any reason the nonconforming use of a building ceases or is discontinued for a
3698 period of 60 days or more (not including periods when restoration is in progress), the
3699 building shall not thereafter be used for the same or any other nonconforming use.

3700 c. Any part of a building, structure or land occupied by a nonconforming use which is
3701 abandoned shall not again be occupied or used for a nonconforming use.

3702 d. Any part of a building, structure or land occupied by a nonconforming use which is
3703 changed to or occupied by a conforming use shall not thereafter be used or occupied by a
3704 nonconforming use.

3705 (6) *Illegal use.* The casual, temporary or illegal use of land or a building shall not be sufficient to
3706 establish the existence of a nonconforming use or to create any rights in the continuance of
3707 such a use.

3708 (c) Nonconforming structures.

3709 (1) Continuance and replacement of nonconforming structures. The lawful existence of a structure
3710 or building at the effective date of adoption of these regulations, although such structure or
3711 building does not conform to the land development regulations for minimum lot area and
3712 dimension, minimum yard setback requirements, maximum building height, total floor area, lot
3713 coverage, square footage, density and minimum floor area requirements or other
3714 characteristics of the structure, or its location on the lot, may be continued so long as it remains
3715 otherwise lawful, subject to the following provisions:

3716 a. Should such structure or building be destroyed by any means to an extent that surpasses
3717 50 percent of the replacement cost of the building or structure, it shall not be reconstructed
3718 except in conformity with the provisions of this Section and any other applicable land
3719 development regulations including, but not limited to, Section 7.1 of the Town Charter.

3720 b. Should such structure or building be destroyed by any means to an extent less than 50
3721 percent of its replacement cost, it may be restored with the original nonconformities. ~~only~~
3722 ~~upon application to the Building and Zoning Department.~~

3723 c. Should such structure or building be moved for any reason for any distance whatever, it
3724 shall thereafter conform to the land development regulations for the zoning district in which
3725 it is located after it is moved.

3726 d. Notwithstanding the foregoing, an existing residential building that is nonconforming as to
3727 either height, setbacks, square footage or density may be replaced by a new
3728 nonconforming building when, and only when:

3729 1. The existing nonconforming building has:

3730 (i) Been destroyed by fire, natural disaster, or other act of God; and

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- 3731 (ii) The property owner has submitted and received Town approval of a site plan
3732 depicting the replacement building; and
- 3733 (iii) Construction of the replacement building is commenced within 12 months of the
3734 date of destruction; or
- 3735 2. The existing nonconforming building is:
- 3736 (i) Demolished as part of a Town-approved redevelopment of the property; and
- 3737 (ii) Prior to demolition, the property owner has submitted and received Town
3738 approval of a site plan depicting the replacement building; and
- 3739 (iii) Construction of the replacement building is commenced within six months of the
3740 date of site plan approval.
- 3741 3. The Town Commission may grant one or more six-month extensions to the time
3742 periods for commencement of construction established in paragraphs (c)(1)d.1.(iii)
3743 and (c)(1)d.2.(iii), above, provided a written request for extension is filed with the
3744 Town Clerk prior to (in the case of a first request for extension) the expiration of the
3745 initial applicable time period for commencement of construction or prior to (in the
3746 case of a subsequent request for extension) the expiration of the most recent
3747 extension of the applicable time period for commencement of construction.
- 3748 4. All new nonconforming buildings constructed pursuant to the provisions of either
3749 paragraph d.1 or d.2, above, shall comply, where applicable, with the restrictions on
3750 use and parking availability established in Section 7.1 of the Town Charter.
- 3751 e. The maximum allowable height of any new nonconforming building constructed pursuant
3752 to the provisions of either paragraph d.1 or d.2, above, shall not exceed the original height
3753 of the nonconforming building which it replaces, plus any additional height which (because
3754 of the requirements of State or Federal law, or because of the restrictions on use
3755 established in Section 7.1 of the Town Charter) may be necessary to obtain the same
3756 number of habitable stories as was contained in the original nonconforming building.
3757 Nothing in this section shall be construed to prevent a new nonconforming building from
3758 being constructed to a lesser height or from containing fewer habitable stories than that of
3759 the original nonconforming building which it replaces. For the purposes of this section, the
3760 term "habitable story" means any story or part thereof that is used as a home or place of
3761 abode, either permanent or temporary, by one or more persons.
- 3762 f. The maximum allowable square footage of any new nonconforming building constructed
3763 pursuant to the provisions of either paragraph d.1 or d.2, above, shall not exceed the
3764 original square footage of the nonconforming building which it replaces, plus any additional
3765 square footage which (because of the requirements of State or Federal law, or because of
3766 the restrictions on use established in Section 7.1 of the Town Charter) may be necessary
3767 to obtain the same number of habitable square feet as was contained in the original
3768 nonconforming building. Nothing in this section shall be construed to prevent a new
3769 nonconforming building from being constructed either with less total square footage or with
3770 less habitable square footage than that of the original nonconforming building which it
3771 replaces. For the purposes of this section, the term "habitable square footage" means the
3772 square footage of that portion of a building that is used as a home or place of abode, either
3773 permanent or temporary, by one or more persons.
- 3774 ~~(5) The maximum building height limits, the restrictions on use and the maximum allowable~~
3775 ~~square footage, and the provisions governing parking established in Section 7.1 of the Town~~

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3776 Charter, shall be applicable to all real property located within the boundaries of the Town as
3777 the boundaries exist on March 20, 2006.

3778 (2) *Alterations, construction, repairs, and maintenance and change.* A nonconforming structure or
3779 building may be maintained and repairs and alterations may be made subject to the following:
3780 ~~except that in a building which is nonconforming as to use regulations, no structural alterations~~
3781 ~~shall be made except those required by law. Repairs as plumbing or the changing of partitions~~
3782 ~~or other interior alterations are permitted.~~

3783 1. No such building or structure shall be enlarged upon or altered in any way that
3784 increases its nonconformity;

3785 2. Such building or structure or portion thereof may be altered to decrease its
3786 nonconformity except as may be hereinafter provided.

3787 3. Such nonconforming buildings or structures shall not be used as a basis for adding
3788 other structures or uses prohibited elsewhere in the same district.

3789 ~~(2) Construction. These regulations shall not be deemed to require a change in the plans,~~
3790 ~~construction or designated use of any building on which actual construction was lawfully begun~~
3791 ~~prior to the effective date of the passage of or amendment to these regulations and upon which~~
3792 ~~actual building construction has been diligently carried on. In no event shall the time of such~~
3793 ~~construction exceed a period of one year except upon approval of the Town~~
3794 ~~Commission.~~ [moved to 30-150(a)(3)]

3795 (43) *Non-conforming parking areas.* Non-conforming parking areas may be rebuilt, reconstructed,
3796 restriped, resurfaced or repaired, subject to the requirements of this section.

3797 a. Changes to the parking area which trigger compliance with handicap parking requirements
3798 under the Florida Building Code must provide the required handicap parking spaces.

3799 b. To the extent feasible, the parking area shall achieve the maximum degree of compliance
3800 possible with the parking, landscape and drainage requirements of the code at the time of
3801 improvement.

3802 c. Permits approved under this section shall be reviewed by the ~~Development Services~~
3803 Department to determine that the proposed plan improves the overall degree of
3804 nonconformity balancing drainage, landscape, parking stall dimension, traffic flow and
3805 handicap improvements against any reduction in parking spaces due to the provision of
3806 required handicap spaces or improvements required to improve the safety of the parking
3807 area.

3808 d. Required parking spaces that are legally established shall not be removed, unless the
3809 removal is required to improve the reasonable safety of the parking lot, as may be
3810 determined in the sole discretion of the Town.

3811 e. Stand-alone parking lots approved for valet parking only, shall not be required to eliminate
3812 more than 25 percent of the currently existing spaces in order to comply with this section.

3813 f. The Town Manager ~~or his/her designee~~ may approve, deny or approve the submitted
3814 parking area plans with modifications.

3815 g. Any legal non-conforming parking area improved under this section shall remain a legal
3816 non-conforming lot unless the lot as improved fully complies with the Code.

3817 ~~Secs. 30-14. 30-20. Reserved.~~

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DIVISION 9 – ZONING RELIEF PROCEDURES

3818 **DIVISION 9 – ZONING RELIEF PROCEDURES**

3819 **Sec. 30-138. - Zoning relief procedures.** [was previously Section 30-22]

3820 (a) *Purpose and applicability.* The following zoning relief procedures are established in order to address
3821 possible ~~unintended~~ ~~alleged~~ violations of federal and state laws, subsequent to implementation of
3822 this Code or its related rules, policies, and procedures in advance of costly litigation, zoning relief
3823 may be granted pursuant to this section.

3824 (b) *Application.* A person or entity shall request relief under this section prior to filing a lawsuit, by
3825 completing and submitting a zoning relief request form, which is available from the ~~Town's~~
3826 ~~Department of Development Services.~~ The form shall contain such questions and requests for
3827 information as are necessary for evaluating the relief requested.

3828 (c) *Notice.* Notice shall be provided in accordance with Sec. 30-139. Notice of Public Hearings.

3829 ~~The Town shall display a notice on the Town's public notice bulletin board and shall maintain copies~~
3830 ~~available for review in the Department of Development Services and the Town Clerk's Office. The~~
3831 ~~notice shall advise the public that a request for zoning relief under a federal or state law is pending.~~
3832 ~~The location, date and time of the applicable public hearing shall be included in the notice. Mailed~~
3833 ~~notice shall also be provided to property owners within 300 feet, if the request for relief is site~~
3834 ~~specific, in accordance with the procedure provided in section 30-13 (d)(2)(b).~~

3835 (d) *Application and hearing.*

3836 (1) The Town Commission shall have the authority to consider and act on requests for zoning relief
3837 submitted to the ~~Department of Development Services.~~ A public hearing shall be held

3838 (2) Within 75-45 days of receipt by the Town of a complete the request for relief at a Town
3839 Commission meeting, unless the applicant agrees in writing to an extension of the hearing date,
3840 a public hearing shall be held by the Town Commission in accordance with the procedures set
3841 forth for public hearings in Section 30-140 Quasi-judicial proceedings.

3842 (3) A final written determination shall be issued by resolution no later than ~~seven-thirty~~ (307) days
3843 after the conclusion of the public hearing.

3844 (4) The final written determination may:

3845 i. grant the relief requested; or

3846 ii. grant a portion of the request and deny a portion of the request, or impose conditions
3847 upon the grant of the request; or

3848 iii. deny the request.

3849 (5) Any determination ~~denying the requested relief~~ shall be final, in writing, and shall state the
3850 reasons for the decision ~~relief was denied.~~

3851 (6) The final written determination shall be sent to the requesting party by certified mail, return receipt
3852 requested.

3853 (e) *Additional information.* If necessary, prior to the public hearing, the Town may request additional
3854 information from the requesting party, specifying in sufficient detail what information is required. In
3855 the event a request for additional information is made to the requesting party by the Town, the
3856 hearing shall be conducted within 30 days after the requesting party's provision of the additional
3857 information required. ~~75-day time period to schedule a public hearing shall be extended to 90 days to~~
3858 ~~include the time necessary to seek and review the additional information.~~ The requesting party shall

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3859 have 15 days after the date the information is requested to provide the ~~needed~~ additional
3860 information. If the requesting party fails to timely respond with the requested additional information,
3861 the Town shall notify the requesting party and proceed with scheduling a public hearing; however,
3862 the applicant and the Town may extend the time period for conducting the hearing by mutual
3863 agreement. The Town Commission will issue ~~and issuing~~ its final written determination regarding the
3864 relief requested as required in subsection (d), based on the information in the Town's possession at
3865 the time of the public hearing.

3866 (f) *Criteria.* In determining whether the zoning relief request shall be granted or denied, the applicant
3867 shall be required to establish:

3868 (1) The applicant is a potential claimant under a federal or state law, including applicable legal
3869 precedent; and

3870 (2) The applicant believes in good faith that the Town through implementation of its Code has
3871 ~~intentionally or unintentionally~~ violated federal or state law for the reasons stated in the zoning
3872 relief request; and

3873 (3) The applicant satisfies the standard set forth in the applicable federal or state statute(s), or legal
3874 precedent interpreting the applicable statute(s) or Constitution.

3875 (g) *Exhaustion required.* Completion of the zoning relief procedures shall be a supplement to and not a
3876 substitute for any other pre-litigation dispute resolution processes available by law to the Town or the
3877 applicant. Completion of the zoning relief procedures shall constitute the exhaustion of all
3878 administrative remedies available from the Town.

3879 (h) *Effect while pending.* While an application for zoning relief or appeal of a determination of same is
3880 pending before the Town, the Town will not enforce the Town's Code, rules, policies, and procedures
3881 which are the subject of the request against the property owner, except the Town may seek relief
3882 through the code enforcement procedures of Chapter 6.5 "Code Enforcement" of the Code of
3883 Ordinances, or through injunctive relief if an imminent threat to the health, safety and welfare of the
3884 public is present.

3885 (i) Additional provisions for zoning relief. The following provisions shall be applicable:

3886 (1) The Town shall display a notice in its public notice bulletin board and on its website advising
3887 the public of this zoning relief procedure and that applications for zoning relief may be obtained
3888 from the Department.

3889 (2) A person or entity may apply for zoning relief on his or her own behalf, or may be represented
3890 at all stages by a representative designated by the requesting party.

3891 (3) The Town shall provide such assistance and accommodation as is required pursuant to federal
3892 and state law, in connection with a disabled person's request for zoning relief, including, without
3893 limitation, assistance with reading application questions, responding to questions, completing
3894 the form, filing an appeal, and appearing at a hearing, etc., to ensure that the process is
3895 accessible.

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DIVISION 10 – NOTICE OF PUBLIC HEARINGS

3900 **DIVISION 10 – NOTICE OF PUBLIC HEARINGS**

3901

3902 **Sec. 30-139. Notice of Public Hearings** [Notice procedures were originally provided in Section 30-

3903 13(d)(2) with the quasi-judicial procedures. They have been deleted and replaced as shown below, to

3904 provide greater detail, more notice throughout the development processes, and adjusted notice timing

3905 consistent with statutory notice requirements for Ordinance adoption]

3906

3907 (2) — Notification and required forms to be completed by affected persons, the petitioner and the Town.

3908 a. — At least 15 calendar days prior to the proceeding, [the] Town shall provide a legal

3909 advertisement to be published in a newspaper of general paid circulation in Broward County

3910 and of general interest and readership in the community, not one of limited subject matter.

3911 Said notice shall state the name of the petitioner for the requested action, the date, time and

3912 location of the proceeding, and the location and times where and when the petition and any

3913 back-up information may be reviewed. In addition, the notice shall inform all affected persons

3914 that they will be allowed to present evidence at the hearing, bring forth witnesses, and cross-

3915 examine witnesses provided they notify and file the required forms provided by the Town

3916 Clerk's Office, the substance of which is described in subsection (d) below.

3917 b. — No later than 15 calendar days prior to the proceeding, a mail notice containing the same

3918 information as the legal advertisement shall be sent to each real property owner within 300

3919 feet of the subject property as each is listed in the records of the County Property Appraiser.

3920 Mail notice may be provided by bulk mail, first class mail or certified mail, return receipt

3921 requested

3922 (a) Generally. When an application for development approval is subject to a public hearing, the DSD

3923 shall ensure that the necessary public hearing is scheduled for the decision-making body reviewing

3924 the application and that proper notice of the public hearing is provided, as set forth herein. All

3925 notices for public hearings shall include the following information:

3926 (1) Applicant's name;

3927 (2) The date, time, and place of the public hearing;

3928 (3) A description of the property involved by street address or by legal description, and area of

3929 the subject property. A map may be substituted for the legal description or as required by

3930 State law;

3931 (4) The nature, scope and purpose of the proposal being noticed;

3932 (5) The Town departments where the public may inspect the application, staff report and related

3933 materials during normal business hours;

3934 (6) A statement that affected parties may appear at the public hearing, be heard and submit

3935 evidence with respect to the application; and

3936 (7) Other information as may be required by law.

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- 3937 (b) Mailed notice.
- 3938 (1) Where mailed notice is required, pursuant to Table XXX, it shall be provided to all property
3939 owners within a 300 foot radius of the subject property, and shall include the subject property
3940 owner(s) and Town Development Services Department.
- 3941 (2) Distances for purposes of mailed notice requirements shall be measured from the perimeter
3942 of the property subject to development approval, except that where the owner of the subject
3943 property owns contiguous property, the distance shall be measured from the perimeter of the
3944 boundary of the contiguous property.
- 3945 (3) Property owners shall be determined by the ad valorem tax records of Broward County.
- 3946 (4) The DSD shall prepare the written notice and provide said notice to the Town Clerk who shall
3947 be responsible for mailing the notices.
- 3948 (5) Mailed notice shall be deemed given when a notice has been properly addressed, stamped
3949 and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal
3950 Service.
- 3951 (6) Notice by mailing is a courtesy only and no action taken by the Town shall be voided by the
3952 failure of any individual property owner to receive such notice.
- 3953 (c) Published notice. When the provisions of this Chapter require published notice, the DSD shall
3954 provide that the notice be:
- 3955 (1) Published in the non-legal section of the local newspaper of general circulation that has been
3956 selected by the Town and in accordance with applicable Florida Statutes.
- 3957 (2) Follow the timelines and ad type established in Table XXX in this Article.
- 3958 (3) For the purposes of this section and Table XXX:
- 3959 a. "Display ad" shall be no less than two (2) columns wide by ten (10) inches long and the
3960 headline of the required notice shall be in a type no smaller than eighteen (18) point
3961 font size. If the ad is for a zoning map amendment, it shall also include a map pursuant
3962 to Florida Statutes 166.041(3)(c)2.
- 3963 b. "Standard ad" shall be shall be in the legal ad section of the classified ads of the
3964 newspaper and shall be in a type no smaller than 5 point font size.
- 3965 (d) Posted notice. When the provisions of this Chapter require that notice be posted on the property
3966 subject to the application, the DSD shall provide the required sign to the applicant who will be
3967 responsible for posting the property, as set forth below:
- 3968 (1) Signs shall be placed on the property that is the subject of the application in accordance with
3969 timelines prescribed in Table XXX in this Article prior to a required or requested hearing.

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- 3970 (2) If the subject property fronts on more than one (1) right-of-way, then a sign shall be posted
3971 facing each right-of-way.
- 3972 (3) Signs shall be placed no more than 5 feet from the street or if there is a sidewalk, no more
3973 than 2 feet beyond the property side edge of the sidewalk, so that the lettering is visible from
3974 the street.
- 3975 (4) If the sign is destroyed or removed from the property, the applicant is responsible for
3976 obtaining another sign from the Town and posting the new sign on the property.
- 3977 (5) The sign shall remain on the property until final disposition of the application. This shall
3978 include any deferral, rehearing, appeal, or requirement for review or hearing by another body.
3979 The sign information shall be updated to include any additional public hearings or public
3980 hearing deferrals consistent with Table XXX.
- 3981 (6) No less than five (5) days prior to the public hearing, the applicant shall execute and submit
3982 to the Department an affidavit of proof of the posting of the public notice sign in accordance
3983 with the provisions of this section. Updates as provided in (5) above shall also require such
3984 affidavit. If the applicant fails to submit the required affidavit, the DSD may postpone the
3985 application until the next public hearing after the affidavit has been supplied.
- 3986 (e) *Town Website Posting.* Notice of all development applications shall be provided on the Town's
3987 Website no later than 10 days prior to any public hearing related to the application. Website Notice
3988 is a courtesy only and no action taken by the Town shall be voided by the failure of such notice to
3989 be posted.
- 3990 (f) *Re-noticing.* All costs of re-noticing the public hearing shall be borne by the party failing to comply
3991 with the applicable notice requirements, requesting the deferral or continuance, or whose actions
3992 are responsible for the deferral or continuance which may require re-noticing of the hearing.
3993 Continuances to a date certain, announced at the originally noticed meeting, shall not require re-
3994 notice of the new public hearing date. Continuances to unspecified dates, substantive changes to
3995 an application request during the period an application has been continued, or more than two
3996 continuances on the application, shall require re-noticing for the new public hearing date.
- 3997 (g) *Development applications requiring public hearing.* Public hearings on applications for development
3998 permit approvals other than rezoning, including, but not limited to administrative adjustments,
3999 appeals from administrative decisions, conditional uses, plats, site plans, vacations and variances
4000 shall be noticed as follows in accordance with Table XXX.
- 4001 (h) *Applicant bears burden of costs.* When the provisions of this Chapter require that notice be
4002 provided, the costs of Town staff preparing the content of the notice and providing such notice shall
4003 be billed through cost recovery.
- 4004 (i) *Provisions of Florida Statutes to prevail.* Where provisions of the Florida Statutes conflict with
4005 provisions of this Chapter, the Florida Statutes shall prevail except where this Chapter contains
4006 supplementary requirements not in conflicting with the Florida Statutes.

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DIVISION 10 – NOTICE OF PUBLIC HEARINGS

4007

TABLE XXX. NOTICE REQUIREMENTS

<u>Application Type</u>	<u>Florida Statute Reference</u>	<u>Board Notice Date (as applicable)</u>	<u>Commission Notice Date</u>	<u>Type of Notice</u>			
				<u>Website</u>	<u>Posted</u>	<u>Mailed 300'</u>	<u>Published (Ad Type)</u>
<u>Other development permits: administrative adjustments, appeals from administrative decisions, conditional uses, plats, site plan, vacations variances</u>		<u>10 days</u>	<u>10 days</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>n/a</u>
<u>Administrative decisions: Architectural Review, Conditional Use Level 1 Modification, Site Plan Level 1 Modification</u>				<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
<u>Comprehensive Development Master Plan - Text</u>	<u>163.3184</u>	<u>10 days</u>	<u>7 days – 1st public hrg and 5 days – 2nd public hrg</u>	<u>X</u>			<u>X (Display)</u>
<u>Comprehensive Development Master Plan - Map</u>	<u>163.3184</u>	<u>10 days</u>	<u>7 days – 1st public hrg and 5 days – 2nd public hrg</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X (Display)</u>
<u>Land Development Code - Text Amendments changes to actual list of permitted, conditional, or prohibited uses within a zoning category).</u>	<u>166.041(3)(c) 2</u>	<u>10 days</u>	<u>7 days – 1st public hrg and 5 days – 2nd public hrg</u>	<u>X</u>			<u>X (Display)</u>
<u>Land Development Code – all other Text Amendments</u>	<u>166.041</u>	<u>10 days</u>	<u>10 days</u>	<u>X</u>			<u>X (Standard)</u>
<u>Zoning Map Change (Ch. 30)—Town (less than 10 contiguous acres)</u>	<u>166.041(3)(c) 1</u>	<u>10 days</u>	<u>30 days</u>	<u>X</u>		<u>X</u>	<u>X (Standard)</u>

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<u>Zoning Map Change (Ch. 30)—Town (10 or more contiguous acres)</u>	<u>166.041(3)(c)</u> <u>2</u>	<u>10 days</u>	<u>7 days – 1st public hrg</u> <u>5 days – 2nd public hrg</u>	<u>X</u>	<u>X</u>	<u>X*</u>	<u>X*</u> <u>(Display, with map)</u>
<u>Zoning Map Change (Ch. 30)—Owner</u>	<u>166.041(3)(a)</u>	<u>10 days</u>	<u>10 days</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u> <u>(Standard)</u>

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4024 **DIVISION 11 – QUASI-JUDICIAL HEARINGS AND PROCEDURES**

4025 **Sec. 30-140 Quasi-judicial proceedings. [moved from Section 30-13]**

4026 (a) *Intent*. It is the intent of the Town to provide an equitable and efficient manner for the Town to hear
4027 matters which are considered quasi-judicial in nature. These procedures shall be utilized by the
4028 Board of Adjustment, Planning and Zoning Board, and the Town Commission in regards to hearings
4029 on quasi-judicial matters in which their body is the final authority.

4030 (b) *Definitions*. As used in this section, the terms listed below shall be defined as follows:

4031 (1) *Affected person* means a person (or persons), natural or corporate, who is the owner of the
4032 subject property or who owns property within 300 feet of the subject property as listed in the
4033 records of the County Property Appraiser, who resides in or operates a business within 300 feet
4034 of the subject property.

4035 (2) *Board* means the Board of Adjustment and Planning and Zoning Board of the Town of
4036 Lauderdale-By-The-Sea, Florida.

4037 (3) *Town or Town Commission* means the Town Commission of the Town of Lauderdale-By-The-
4038 Sea, Florida.

4039 (4) *Local public official* means any elected or appointed public official holding a Town office and
4040 who recommends or takes quasi-judicial action as a member of a board or commission.

4041 (5) *Party or parties* means the petitioner, Town and any affected person who has requested to be
4042 heard at the proceeding.

4043 (6) *Petitioner* means one who seeks an approval that is quasi-judicial in nature.

4044 (67) *Quasi-judicial in nature* means the application of a general rule or policy to specific individuals,
4045 interests or activities.

4046 (78) *Quasi-judicial proceeding* means a hearing to adjudicate the private rights of a petitioner before
4047 held by a board or the Town Commission to adjudicate private rights of a particular person,
4048 which after a hearing which comports with due process requirements, and makes results in
4049 findings of fact and conclusions of law on the issue.

4050 (89) *Site specific* means an individual piece of real estate which can be clearly defined by street
4051 address, legal description or similar means at a single identifiable location.

4052 (109) *Special Master Magistrate* means the individual(s) retained by the Town to conduct
4053 quasi-judicial hearings that would otherwise come before the Town Commission for hearing as
4054 contemplated by this section.

4055 (c) *Quasi-judicial matters*.

4056 (1) For the purposes of this section, the following matters, regardless of whether the final
4057 determination is made by the Town Commission or a board, shall be considered to be quasi-
4058 judicial:

4059 a. Site specific rezonings and site plans;

4060 b. Conditional use approvals;

4061 c. Variances, including, but not limited to, trees, signs, setbacks, distance requirements
4062 between buildings or other variances permitted by the Town Code;

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- 4063 d. Plat approvals; ~~and~~
- 4064 e. Special exceptions which relate to the use of land and businesses, and
- 4065 f. Level Class 2 II Administrative Adjustments.
- 4066 (d) *Procedures for quasi-judicial proceedings.*
- 4067 (1) *Ex-parte communications* are not presumed prejudicial provided any disclosure required in
- 4068 subsections (a), (b), or (c) below is made before or during the public meeting at which a vote is
- 4069 taken on the matter.
- 4070 a. The substance of any ex-parte communication with a local public official that relates to
- 4071 quasi-judicial action pending before the official is not presumed prejudicial to the
- 4072 action if the subject of the communication and the identity of the person, group or
- 4073 entity with whom the communication took place is disclosed and made a part of the
- 4074 record.
- 4075 b. A local public official may read a written communication from any person. However, a
- 4076 written communication that relates to quasi-judicial action pending before a local
- 4077 public official shall not be presumed prejudicial to the action and such written
- 4078 communication shall be made a part of the record before final action on the matter.
- 4079 c. Local public officials may conduct investigations and site visits and may receive expert
- 4080 opinions regarding quasi-judicial action pending before them. Such activity shall not
- 4081 be presumed prejudicial to the action if the existence of the investigation, site visit, or
- 4082 expert opinion is made a part of the record before final action on the matter.
- 4083 (2) *Notice required.* ~~Notification and required forms to be completed by affected persons, the~~
- 4084 ~~petitioner and the Town.~~ **[moved in concept, to Section 30-139, Notice of Public Hearings]**
- 4085 a. ~~Notice shall be provided in accordance with the provisions set forth in Sec. 30-139.~~
- 4086 ~~Notice of Public Hearings. At least 15 calendar days prior to the proceeding, [the]~~
- 4087 ~~Town shall provide a legal advertisement to be published in a newspaper of~~
- 4088 ~~general paid circulation in Broward County and of general interest and readership~~
- 4089 ~~in the community, not one of limited subject matter. Said notice shall state the~~
- 4090 ~~name of the petitioner for the requested action, the date, time and location of the~~
- 4091 ~~proceeding, and the location and times where and when the petition and any back-~~
- 4092 ~~up information may be reviewed. In addition, the notice shall inform all affected~~
- 4093 ~~persons that they will be allowed to present evidence at the hearing, bring forth~~
- 4094 ~~witnesses, and cross-examine witnesses provided they notify and file the required~~
- 4095 ~~forms provided by the Town Clerk's Office, the substance of which is described in~~
- 4096 ~~subsection (d) below.~~
- 4097 b. ~~No later than 15 calendar days prior to the proceeding, a mail notice containing the~~
- 4098 ~~same information as the legal advertisement shall be sent to each real property~~
- 4099 ~~owner within 300 feet of the subject property as each is listed in the records of the~~
- 4100 ~~County Property Appraiser. Mail notice may be provided by bulk mail, first class~~
- 4101 ~~mail or certified mail, return receipt requested.~~
- 4102 (3) *Presentation of evidence.*
- 4103 a. All persons testifying before a board or the Town Commission must be sworn in.
- 4104 The petitioner, members of a board or the Town Commission and any affected
- 4105 person who has requested to be heard ~~provided notice that it intends to appear at~~
- 4106 ~~the proceeding shall be given the opportunity to present evidence, bring forth~~
- 4107 ~~witnesses, and cross-examine any witnesses.~~

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- 4108 b. All evidence relied upon by reasonably prudent persons in the conduct of their
4109 business shall be admissible, whether or not such evidence would be admissible in
4110 a court of law. However, immaterial or unduly repetitious evidence shall be
4111 excluded.
- 4112 c. Hearsay evidence may be used for the purpose of supplementing or explaining
4113 other evidence, but it shall not be sufficient by itself to support a finding.
- 4114 d. Documentary evidence may be presented in the form of a copy or the original, if
4115 available. Upon request, parties shall be given an opportunity to compare the copy
4116 with the original.
- 4117 e. A party shall be entitled to conduct cross-examination when testimony is provided
4118 or documents are made a part of the record.
- 4119 f. The Office of the Town Attorney shall represent the Board or the Town
4120 Commission. Any questions as to the propriety and admissibility of evidence shall
4121 be presented to the Town Attorney's Office in a timely fashion.
- 4122 (4) *Procedures for quasi-judicial proceedings.* The proceedings shall be conducted in an
4123 informal manner in accordance with this section. Each party shall have the right to do the
4124 following as part of its presentation:
- 4125 a. ~~To~~ call and examine witnesses;
- 4126 b. ~~To~~ introduce exhibits;
- 4127 c. ~~To~~ cross-examine opposing witnesses on any relevant matter; and
- 4128 d. ~~To~~ rebut evidence.
- 4129 (5) *Conduct of quasi-judicial proceedings.* To the extent possible, the following shall be the
4130 order of the proceedings:
- 4131 a. Call the proceeding to order and announce the matter to be heard ~~beginning of the~~
4132 ~~proceeding~~. A majority of the Board or Town Commission members must be
4133 continuously present during the proceeding.
- 4134 ~~b. The matter to be heard and the rules concerning the admissibility of evidence~~
4135 ~~should be announced.~~
- 4136 ~~eb.~~ Statements of counsel shall only be considered as argument and not be
4137 considered as testimony. Counsel for parties shall not be subject to cross-
4138 examination. The Board or the Town Commission shall have the authority to refuse
4139 to hear any testimony which is irrelevant or repetitive.
- 4140 c. Town presentation. [The order of presentation is proposed to be reversed
4141 (Town then petitioner instead of the original petitioner then Town)]
- 4142 1. The Town shall make its presentation ~~before~~ after the petitioner. Upon the
4143 request of the Petitioner, the order of presentations may be reversed at the
4144 discretion of the Chair.
- 4145 2. During its presentation, the Town shall present any staff, Board or other
4146 reports on the matter as well as any comments and recommendations.
- 4147 3. These reports shall include, but not be limited to:
- 4148 i. a description of the request of the petitioner;
- 4149 ii. a description/background related to the petition;

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4193 ~~b. The applicant, any Commission member, or any member of the public may request~~
4194 ~~that an application for a development approval be removed from the quasi-judicial~~
4195 ~~consent agenda and, except as otherwise provided in subsection (c) below, such~~
4196 ~~item shall be continued and shall be scheduled on the next regular Town~~
4197 ~~Commission (non-consent) agenda approximately two weeks after the date it was~~
4198 ~~removed from the quasi-judicial consent agenda or such other date as applicant and~~
4199 ~~Town Commission agree upon.~~

4200 ~~c. The applicant may request that the Town Commission listen to testimony, receive~~
4201 ~~documentary evidence, and take action on the application at the meeting at which~~
4202 ~~the application is removed from the quasi-judicial consent agenda.~~

4203 ~~d. All applications for development approval which are placed on a quasi-judicial~~
4204 ~~regular (non-consent) agenda or that have been removed from the quasi-judicial~~
4205 ~~consent agenda shall be heard pursuant to and in accordance with the procedures~~
4206 ~~set forth above.~~

4207 ~~(67) Hearings in front of the Board or Town Commission; final determination by the Board or~~
4208 ~~Town Commission.~~

4209 a. In reaching a determination as to whether to grant or deny the petition, the Board
4210 or Town Commission shall:

4211 ~~(1i).~~ Consider whether the petitioner's request is consistent with the Town's Code
4212 and Comprehensive Plan, if applicable; and

4213 ~~2.(iii)~~ State with specificity the reasons for the approval or denial of the
4214 petition. Said approval or denial may, by reference, incorporate the staff,
4215 Board or other reports, ~~and~~

4216 ~~(iii)~~ State whether or not the order is to be recorded in the public records of
4217 Broward County, and if applicable, that the cost of recording shall be paid by
4218 the petitioner.

4219 ~~(78) Preparation of the order.~~ The Town Attorney's Office shall prepare the final order, resolution
4220 or ordinance of the Board or Town Commission, as applicable, based upon the
4221 determination. The final order shall include, but not be limited to, the finding of facts, any
4222 conditions, requirements or limitations on ~~the any~~ approval of the petition, and whether or not
4223 the order shall be recorded in the Broward County public records.

4224 ~~If an ordinance is required to be adopted upon approval of an action by the Town Commission, a~~
4225 ~~final order will not be prepared unless the petition is denied.~~

4226 ~~(89) Continuances and deferrals.~~ If, in the opinion of the Board or Town Commission, any
4227 testimony or documentary evidence or information presented at the proceeding justifies
4228 providing additional time to allow additional research or review in order to properly determine
4229 the issue presented, the Board or Town Commission shall continue the case to a designated
4230 time to allow for the additional research or review, consistent with Article IV, Division 1. After
4231 the decision is made to continue, the date to which the proceeding shall be continued shall
4232 be announced at the proceeding.

4233 ~~(940) Transcription of the quasi-judicial proceedings.~~ The official record of a proceeding shall
4234 be preserved by tape recording or other device by the Town Clerk's Office. Nothing
4235 precludes any party from providing a court reporter for the proceeding. If any person
4236 decides to appeal any decision made with respect to any matter considered at these public
4237 hearings, he/she will need a record of the proceedings and for such purposes will need to
4238 insure, independent from the Clerk's record, that a verbatim recording of the proceedings is

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ARTICLE IV. DEVELOPMENT PERMITS - APPLICATIONS REQUIREMENTS AND REVIEW PROCEDURE
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4239 made, which records include the testimony and evidence upon which the appeal is to be
4240 based.

4241 (104) *Maintenance of evidence and other documents.* The Office of the Town Clerk shall retain
4242 all of the evidence and documents presented at the proceeding, ~~except for large-scale~~
4243 ~~exhibits which shall be retained by the Town Manager or designee, all which become a part~~
4244 ~~of the public record of the proceeding.~~ The petitioner shall provide a digital copy or
4245 photograph to the Town of large-scale exhibits or building material samples presented at the
4246 proceeding, which shall also be retained by the Town Clerk. All of the evidence and
4247 documents presented at the proceeding shall become a part of the public record of the
4248 proceeding.

4249 (112) *Appeal of final determination by Board or Town Commission.* The final determination of
4250 the Board or Town Commission is subject to judicial review in a court of competent
4251 jurisdiction.

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4254 ~~Secs. 139-150. Reserved.~~

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ARTICLE IX. APPEALS

4255 **Sec. 30-531 - Appeals from administrative decisions.** [subsection (d) addressing procedures for
4256 hearing appeals from administrative decisions, shown below in strikethrough was originally addressed in
4257 30-7(d) where the Board of Adjustment was the final decision maker on all administrative decision appeal
4258 applications]

4259 ~~(d) Procedures for hearing appeals from administrative decisions.~~

4260 ~~(1) The party aggrieved by a decision of the Administrative Officer shall make application on forms~~
4261 ~~to be provided by the Town for a review and interpretation of the regulation or law giving rise to~~
4262 ~~the grievance. Upon filing of such application, the applicant shall pay a fee based on the type of~~
4263 ~~application, to cover the costs of application, preparation of necessary information, publication~~
4264 ~~of notice, and similar in-house employee expenses, plus any additional costs incurred by the~~
4265 ~~Town for third-party contractors (such as the Town Attorney, the Town Planner and/or the Town~~
4266 ~~Engineer).~~

4267 ~~Payment shall be made to the Development Services Director. Unless such application fee is~~
4268 ~~paid and notice of application filled out in proper form, the Development Services Director shall~~
4269 ~~not transmit the same to the Town Board of Adjustment for consideration. In the event the party~~
4270 ~~aggrieved prevails on his challenge, the filing fee shall be refunded.~~

4271 ~~(2) The application for review and interpretation shall set forth the request with sufficient detail to~~
4272 ~~reasonably apprise the Board of Adjustment of the nature, extent and scope of the grievance~~
4273 ~~and the particular regulation or law which the applicant claims to have been misinterpreted or~~
4274 ~~misapplied.~~

4275 ~~(3) The Town Manager shall examine such application to determine whether all pertinent~~
4276 ~~information has been provided and, upon finding same to be in order, shall, within 14 working~~
4277 ~~days, forward same to the Board of Adjustment for consideration at the next regular meeting of~~
4278 ~~such Board.~~

4279 ~~(4) The Board of Adjustment shall notify the applicant of the date set for a hearing on the~~
4280 ~~application, and such a notice shall provide a minimum of seven calendar days before the~~
4281 ~~applicable meeting. At the time of the hearing on the application, the Board shall allow both the~~
4282 ~~applicant and the affected Administrative Officer to be heard.~~

4283 ~~(5) After receiving all relevant materials and information, the Board of Adjustment shall recommend~~
4284 ~~an interpretation of the pertinent regulation or law, as applied to the applicant grievant, to the~~
4285 ~~Town Commission, and such interpretation made by the Town Commission shall be deemed~~
4286 ~~binding on the affected administrative official.~~

4287 ~~(a) The party aggrieved by a decision of an administrative official in the interpretation and~~
4288 ~~application of this Chapter shall file an appeal under this section.~~

4289 ~~(b) Unless otherwise provided in this Chapter, no application for interpretation shall be permitted~~
4290 ~~with regard to an application which is pending before the Town Commission for review, it being~~
4291 ~~the intent of these appeal provisions that this process not be used as a substitute for review of~~
4292 ~~decisions made by the Town Commission. Any appeals arising from related matters, such as~~
4293 ~~an appeal of an interpretation on a site plan and an appeal of an interpretation related to the~~
4294 ~~application of architectural design standards to structures proposed to be built on the site plan,~~
4295 ~~shall be heard concurrently with the related matter by the Town Commission.~~

4296 ~~(c) No appeal may be considered under this section where the appeal is filed more than thirty (30)~~
4297 ~~days after issuance or denial of the permit in question. No appeal may be considered under this~~

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4298 section where the appeal is filed more than thirty (30) days from the date the applicant knew or
4299 with reasonable diligence should have known of the decision which forms the basis of the
4300 appeal.

4301 (d) Application. An application for an appeal from an interpretation, application or determination
4302 made by an administrative official in the enforcement of this Chapter shall include:

4303 (1) A statement as to each provision of this Chapter which is in question;

4304 (2) The interpretation, application or determination made by the administrative official or
4305 department from which the applicant appeals;

4306 (3) A statement of the interpretation, application or determination of law or fact advanced by
4307 the applicant; and

4308 (4) The reason why the applicant believes his or her interpretation, application or
4309 determination is correct in law or fact.

4310 (e) Review process.

4311 (1) Department review. The DSD shall prepare a report which shall include:

4312 a. The Department's agreement or disagreement with the applicant's statement of the
4313 law or fact in question;

4314 b. The interpretation of the Department with regard to the law or fact in question;

4315 c. The basis for the Department's interpretation; and

4316 d. The reason why the Department believes its interpretation, application or
4317 determination is correct in law or fact.

4318 (2) Process. The application shall be processed as a Level 2 review – with review and
4319 recommendation by the Board of Adjustment.

4320 (3) Criteria. The criteria for review is whether the administrative interpretation, application or
4321 determination at issue is clearly erroneous.

4322 (f) Order. The final order of the Town Commission shall either affirm, in whole or in part, the
4323 interpretation, application or determination made by the administrative official as correct in
4324 accordance with the above criteria, or reverse, in whole or in part, the interpretation, application
4325 or determination made by the administrative official as incorrect in accordance with the above
4326 criteria.

4327 (g) Effective date of order. The final order shall take effect thirty days from the date of filing of the
4328 executed order with the Town Clerk.

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4329 (h) Effect of order. Upon entry of a final order, the law or fact as interpreted by the Town
4330 Commission shall be applicable to all applications for a development permit which have not
4331 been reviewed by the Town Commission.