

CHAPTER TEN
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CHAPTER TEN
NONCONFORMING DEVELOPMENT

10000. TYPES OF LAWFUL NONCONFORMING DEVELOPMENT

Development that does not conform to provisions of this LDC is called nonconforming development. Certain provisions of this LDC establish the means by which lawful nonconforming development may be allowed to continue and the means by which new development may lawfully deviate from the terms and conditions of this LDC. The types of nonconforming development include nonconforming uses and structures; development approved at the time of enactment of this LDC as a Planned Unit Development but not completely constructed; development approved at the time of enactment of this LDC through a master plan, site plan, or subdivision plat but not completely constructed; or development proposed on or after the date of enactment of this LDC for which a variance is approved. Uses and structures not granted status as a lawful nonconformity shall be prohibited and are subject to removal according to provisions of this LDC.

10100. NONCONFORMING USES, STRUCTURES, LOTS, AND DENSITIES

10110. PURPOSE AND INTENT

This section is intended to provide for continuance of lawful nonconformities without unduly restricting their maintenance or improvement. The County intends to permit lawful nonconforming uses and structures created prior to or by adoption of this LDC to continue until removed by economic or other forces. It is not the County's intent to encourage survival of these nonconformities due to incompatibility with the provisions of the Comprehensive Plan and this LDC.

Nonconformities include land, uses, and structures that were legally permitted at the time of establishment and were not approved by any official action of Citrus County administrative or legislative officials. The County intends to discourage and eliminate nonconformities that have been unlawful since their inception.

10120. APPLICABILITY

The provisions of this section shall apply to any use, structure, land, or sign lawfully established prior to enactment of this LDC that do not conform to the requirements of this LDC, except where standards for vested rights have been met as provided herein.

10130. GENERAL PROVISIONS

- A. To avoid undue hardship, nothing in this section shall be deemed to mandate change in plans, construction, or designated use of any building for which a lawful building permit has been secured prior to the date of enactment of this LDC.
- B. Normal maintenance and incidental repair of a lawful nonconformity shall be permitted provided that such maintenance and repair does not violate any other section of this LDC and is in full compliance with all building and technical codes.
 - 1. Nothing in this section shall be deemed to prevent strengthening or restoring of a structure to a safe condition in accordance with an order of a public official who is charged with protecting the public safety. That official may declare such structure to be unsafe and order its restoration to a safe condition provided that the restoration is the minimum necessary to bring the property to a safe condition.
 - 2. Nothing in this section shall be deemed to prevent an extension for the exclusive purpose of providing required off-street parking or loading spaces. Such extension shall not involve enlargement of the structure.
- C. When a lot of record, lawfully recorded prior to November 27, 1990, does not comply with the size or area requirement of the district in which it is located, the lot shall be construed to be a valid nonconforming lot and may be used for any purpose permitted in the district. Setbacks shall be determined by applying the requirement in the land use district most closely aligned.
- D. Nonconforming structures shall not be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure and use shall thereafter conform to requirements of this LDC.
- E. No use or structure that is accessory to a principal lawful nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated.
- F. When a building does not comply with all requirements of the district in which the property is located and the noncompliance was occasioned by a variance granted by the PDC prior to adoption of this LDC, such building shall, for the purposes of this section, be considered to be a valid nonconforming structure.

- G. When a building does not comply with all requirements of the district in which the property is located and the noncompliance was occasioned by the exercise of eminent domain or by voluntary or involuntary donation or sale of the land for a governmental purpose, such building shall not be considered a nonconforming structure.
- H. The burden of establishing that any nonconformity is lawful as defined in this LDC shall, in all cases, be upon the owner of such nonconformity and not upon Citrus County.
- I. The certification of valid nonconforming uses as required under prior Ordinances 80-05, 86-12, and 90-14, shall be recognized as evidence of a lawful use under this section.

10140. MOBILE HOMES

- A. To avoid undue hardship, nothing in this section shall be deemed to prohibit the replacement of a mobile home within a land use district that prohibits mobile homes provided the following criteria is met:
 - 1. The replacement mobile home is of similar design i.e., a single wide is replaced by a single wide or a double wide is replaced by a double wide.
 - 2. The mobile home located on the lot of record is the only residential structure permitted on the property.
 - 3. The replacement mobile home maintains compliance with the preexisting setbacks of the original structure or the established setbacks for the land use district in which it is located.
 - 4. Compliance with the other standards within this LDC is maintained.

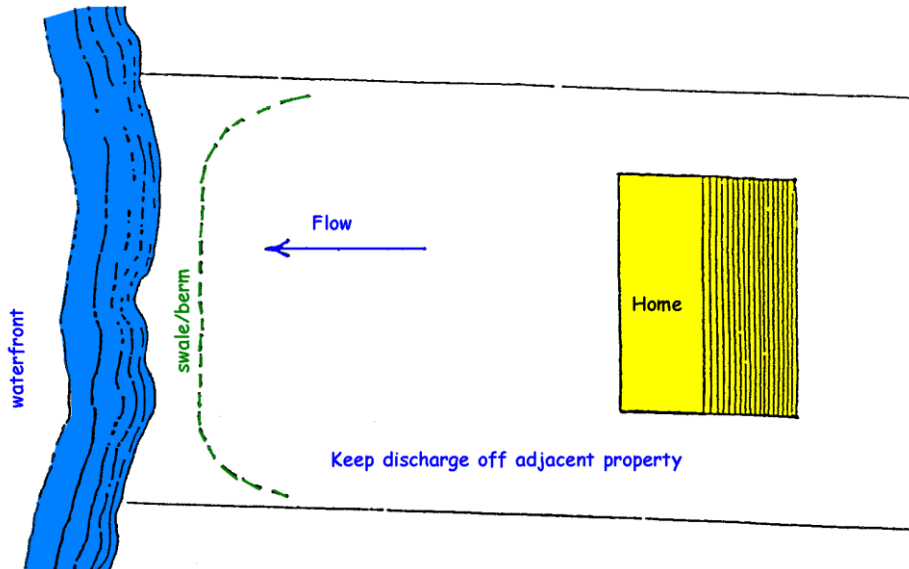
10150. NONCONFORMING DENSITIES

- A. Residential lots of record containing more than one residential structure shall be deemed a valid nonconforming use. To avoid undue hardship nothing in this section shall be deemed to prohibit expansion of a site built principal structure provided the following criteria are met:
 - 1. The principal structure is owned and occupied by the property owner;
 - 2. The proposed expansion does not expand or create additional nonconforming conditions such as setbacks, impervious surface ratio (ISR), etc.; and

3. Compliance with the other standards within this LDC is maintained.
- B. Where the principal structure is a mobile home, replacement with a site built, modular home, or mobile home (as land use district allows) is permissible.

10160. NONCONFORMING WATERFRONT SETBACKS

- A. Structures encroaching within the established waterfront setbacks shall be deemed a valid nonconforming use. To avoid undue hardship, nothing in this section shall be deemed to prohibit replacement of the nonconforming structure provided the following criteria are met:
1. The replacement structure is within the preexisting footprint and does not expand or create additional nonconforming conditions such as ISR, floor area ratio (FAR), etc.; and
 2. A berm/swale is provided between the structure and the water body and/or a gutter system is installed that conveys the runoff to a controlled area outside the established setbacks; and



3. Compliance with the other standards within this LDC is maintained.

10170. DISCONTINUANCE, TERMINATION, OR ABANDONMENT

If a nonconforming structure or land ceases (if the building becomes vacant or the business closes), or if that use has been discontinued for a period of 365 days (one year), use of the structure or the structure and land shall thereafter

conform to the standards of this LDC. The time period provided in this provision, is a rebuttable presumption of intent to abandon, which a showing of sufficient evidence to the contrary may overcome.

The Director of the Department of Planning and Development and or his/her designee may grant an extension not to exceed 365 days. Any request for an extension must be made in writing, submitted prior to the expiration date. If the request is submitted after the expiration date, in addition to the written request, there must also be a showing of sufficient evidence to overcome the presumption of abandonment.

10180. REPLACEMENT OF DAMAGED BUILDINGS

Any nonconforming building(s) or structure(s) which has been damaged or destroyed by fire, natural elements, or force may be reconstructed and used as before if it is reconstructed or if building permits are issued within 365 days after such damage has occurred. When the nonconforming structure is a mobile home used for residential purposes, it may be replaced with a mobile home of similar design. Upon written request submitted prior to the expiration date, the Director of the Department of Planning and Development and or his/her designee may grant an extension not to exceed 365 days.



10190. PROCEDURES FOR ADMINISTRATIVE DETERMINATION OF VALID NONCONFORMING USES

Any person or firm claiming to have a valid nonconforming use under the terms of this LDC shall apply to the Director of the Land Development Division for a determination and a Letter of Certification. The application shall consist of a statement, with the applicant's signature notarized, stating the nonconforming use and the dates that the use has been in existence. This statement shall be submitted along with a legal description of the property where the use is located and sufficient evidence to support the claim.

- A. Such evidence shall include any or all of the following:
1. Local business tax receipts covering each year since the use became nonconforming.
 2. Business records such as sales receipts, invoices, tax receipts, ledger books, Internal Revenue Service filing forms, or other proof of continuous use.
 3. Affidavits from the owner and neighboring property owners who have knowledge of the existence of the use.
 4. Proof of ownership or tenancy (deed or lease). A contract to purchase shall be acceptable in lieu of a deed.
All evidence must reflect continuous operation by dates of not more than six-month intervals from the date that the use became nonconforming.
- B. When the Director of the Land Development Division is satisfied with the evidence submitted, he/she shall notify by mail each owner of abutting property that the claim or valid nonconforming use has been received and provide a period of 14 days from the date the letter is received, for the evidence to be contested by response. If the evidence is contested by adjoining property owners, the Director of the Land Development Division shall contact the complainant to ascertain the facts pertaining to the claim.
- C. If the Director of the Land Development Division determines from the evidence that a claim is valid, he shall issue a Letter of Certification of Valid Nonconforming Use to the applicant. A copy of the letter and all supporting evidence shall be filed in the Department of Planning and Development. Copies of the letter shall be mailed to each abutting property owner or respondent to the original notice.
- D. If the Director of the Land Development Division determines that the claim is not valid, he shall so notify the applicant in writing with the reasons for the determination. This letter and all evidence submitted shall be filed in the Department of Planning and Development. Copies of the letter shall be mailed to each abutting property owner or respondent to the original notice.
- E. After the Director of the Land Development Division has rendered a decision in writing, affected persons shall have 100 days to file any appeal as provided for in this LDC.

10200. STANDARDS FOR VESTED RIGHTS

The County shall recognize vested rights as established according to the Florida Common Law and Florida Statutes.

10300. PROTECTION OF STRUCTURES AND USES WITH HISTORICAL OR CULTURAL VALUE

For those nonconforming structures or uses that are found to have exceptional value to the community, the PDC may grant a waiver to the limitations to alteration or expansion of such use. Such structures or uses may include, but are not limited to: houses of worship, commercial marinas or fisheries, and historical structures. An application for a waiver shall be filed with the Director of the Land Development Division. Requests concerning structures or sites considered to have historical significance shall be referred to the Citrus County Historical Resources Advisory Board for its recommendation prior to review and determination by the PDC. Before granting such a waiver, the PDC shall find that all of the following conditions are met:

- A. The use is an historical or cultural asset to the community.
- B. The proposed alteration, reconstruction, or expansion will result in a substantial improvement in the appearance and structural integrity of the premises.
- C. The proposed alteration will not increase the external impacts of the use on traffic conditions or public utilities, including wastewater and potable water systems, beyond the adopted level of service.
- D. The proposed alteration will not significantly increase external impacts on the natural environment.
- E. The proposed alteration will not negate the historical/archaeological integrity of the building or site.

10400. PROTECTION OF COMMERCIAL STRUCTURES

It is the intent of this section to provide protection for commercial structures lawfully existing on or before April 18, 1989 (Comprehensive Plan Adoption Date). For those nonconforming structures that are found to constitute a substantial investment in a commercial property under the specific criteria contained within this section, a commercial use may be reestablished within the commercial structure(s) and such commercial use shall be subject to the provisions contained herein.

It is further the intent of this section that the recognition of commercial structures under these provisions shall **not** be considered grounds for justification towards an amendment to the Generalized Future Land Use Map (GFLUM) or the Atlas of this LDC.

- A. An applicant's right to reestablish a commercial use is permissible if the applicant can demonstrate all of the following:
 - 1. Commercial improvements to the property were legally permitted and constructed prior to April 18, 1989.
 - 2. The current value of commercial improvements must establish that development expectations are investment backed to a substantial degree and shall be based upon the following:
 - a. The current value of commercial improvements must exceed the current land value based on a non-commercial land valuation; or
 - b. The current value of commercial improvements must exceed the projected cost of demolition and removal of commercial improvements or adaptive reuse of commercial structure(s) for residential use (or other allowable use).
- B. If commercial use of an existing structure is found to be permissible under the criteria provided by this section, commercial use shall be limited to the type of use that last occupied the structure(s) or a less intensive use. The commercial use shall not be expanded beyond the square footage of the recognized structure. No outdoor commercial activities shall be considered under the provisions of this section.
- C. The relief granted under this section shall be the minimum relief necessary to provide the applicant with a reasonable use of his/her property given development expectations that are investment backed in the form of commercial improvements to the property only. Improvements may include but shall not be limited to parking facilities, potable water and wastewater systems meeting public/commercial standards, and onsite structures complying with commercial construction standards. Other related expenditures may not be considered under the provisions of this section.
- D. A determination of lawful use under the provisions of this section shall expire and be null and void unless the commercial use is reestablished within one year of the date the determination is made. These provisions are intended to provide a reasonable opportunity to utilize legally permitted commercial structures that are nonconforming under the current Comprehensive Plan.

- E. Modifications and upgrades to the recognized structure(s) that do not constitute an expansion of the facility, as described above, shall be reviewed in accordance with the provisions of this LDC.

10500. PROPERTIES AFFECTED BY EMINENT DOMAIN PROCEEDINGS

10510. PURPOSE AND INTENT

- A. The purpose and intent of this Section of the Land Development Code is to allow certain nonconformities caused by eminent domain proceedings or negotiations, pursuant to Florida Statutes, to become conforming to the Land Development Code (referred to herein as the “LDC” or the “Code”) and to provide authority, guidelines, criteria, and procedures for the Director of the Land Development Division to review and grant administrative variances to certain provisions of the LDC in connection with eminent domain proceedings or negotiations.
- B. At times, it is necessary for condemning authorities to acquire properties in whole, or in part, from landowners through eminent domain proceedings or negotiations. Properties acquired in part result in remainder parcels that, in some cases, become nonconforming with respect to certain provisions of the LDC. The creation of new nonconformities, or increases in the degree of nonconformity of existing legal nonconformities, can impose hardships on landowners and to remainder parcels. It is deemed a valid public purpose to recognize as conforming, pursuant to the provisions of this Section, certain nonconformities created by eminent domain proceedings or negotiations.
- C. It is found to be in the public interest to encourage the submittal of a Site Redesign/Cure Plan for the purpose of establishing conforming properties to the greatest extent possible after an eminent domain action. The submittal of a Site Redesign/Cure Plan shall meet all applicable codes wherever possible. In cases where the property cannot meet LDC requirements, certain variances may be granted administratively as set forth in this Section.
- D. Nothing contained in this section shall be construed or interpreted to permit the existence or continuance of LDC violations that are determined to be an immediate threat to the public health, safety, or welfare.

10520. EMINENT DOMAIN IMPACTS RELATIVE TO CERTAIN CODE REQUIREMENTS

- A. Where an eminent domain action causes the creation of nonconformities, and/or increases in the degree of nonconformity of existing legal nonconformities, such nonconformities shall be considered legal and conforming subject to the provisions of this Section. Nonconformities created by eminent domain actions that are declared conforming pursuant to this Section shall not be subject to the provisions of this LDC.
- B. Where, because of an eminent domain proceeding or negotiation, either a nonconformity or an increase in the degree of a legal nonconformity is created, the structures, land uses, and characteristics of uses may continue to exist in the configuration remaining after the condemnation.
- C. As provided in this Section, certain nonconformities that are created or increased in nonconformity by eminent domain proceedings are deemed to be conforming to this Code, and shall also be subject to the development standards set forth below.

1. Lot Area, Width and Depth

Any lot which is reduced in lot area, width, or depth relative to the minimum required by the land use district shall be deemed to be a conforming lot for the purposes of continuing an existing use, redevelopment of the property, or new development. However, no lot shall be reduced in area, width or depth so as not to be in compliance with Florida Statutes.

2. Setbacks

- a. Where any lot has existing improvements, any reduction in setback dimensions and/or lot coverage areas below the minimum required by the applicable land use district shall be deemed to be conforming. Any new construction, other than an addition to an existing improvement, shall meet setback and lot coverage standards of the applicable land use district and other requirements of this Code, not exempted by this Section.
- b. New additions to existing improvements may be measured from the property line existing prior to the date of deposit. Otherwise, the addition must meet setback requirements pursuant to the applicable land use district and this Code.
- c. After the date of deposit for any property subject to eminent domain proceedings, any nonconforming improvements that exist on the

remainder property of the original eminent domain parent tract property that are partially or totally destroyed by natural forces or other Acts of God may be reconstructed to their post-taking condition setback, size, and height.

3. Open Space and Impervious Surface Ratio

Any reduction in open space or increase in impervious surface ratio relative to the land use district requirement shall be deemed to be conforming to Code requirements.

4. Landscaping

Any reduction in perimeter landscape buffers, buffers along rights-of-way and interior parking lot landscaping requirements shall be deemed to be conforming to Code requirements.

5. Signage

- a. Sign setbacks, after an eminent domain proceeding or negotiation, shall be based on the pre-take lot line. Any reduction in a conforming setback will be deemed to be conforming to Code requirements.
- b. An existing legal nonconforming sign (as to setbacks, height, or sign area) that is affected by eminent domain proceedings may be relocated on the remainder property provided it meets required Code setback, unless an administrative variance is granted.
- c. If more than one sign is located within the part of the parent tract subject to taking, the maximum number of signs permitted on the remainder property after eminent domain proceedings shall meet Code requirements as to the number of permitted signs, unless an administrative variance is granted. The permitted number of signs may be relocated on the remainder provided setback and minimum separation distance requirements are met, unless an administrative variance is granted.

6. Floor area ratio and residential density

- a. Any nonconformity created by an eminent domain action relative to floor area ratio and/or residential density shall be deemed to be conforming to Code requirements.
- b. In certain cases, the impacts of an eminent domain action on vacant land relative to floor area ratio and residential density may

be mitigated, either wholly or in part, through the granting of floor area ratio and/or residential density entitlements based on a property's land area prior to the eminent domain action. The granting of such entitlements may be approved administratively, provided the applicant complies with all other standards of the Code.

- D. The landowner of a property subject to condemnation actions or a condemning authority representative may request, from the Director of the Land Development Division, a written certification of nonconformities recognized as conforming pursuant to the provisions of this Section. Requests shall be submitted on forms provided by the County and the Director of the Land Development Division shall respond in writing, to the applicant, within 100 calendar days following receipt of the request.

10530. SITE REDESIGN/CURE PLAN

- A. In certain cases, the impacts of an eminent domain action may be mitigated, either wholly or in part, through the submittal and approval of a Site Redesign/Cure Plan either by voluntary action on the part of the property owner or the condemning authority's representative. Certain waivers, as enumerated in this section, may be granted administratively by the Director of the Land Development Division. Administrative variances may also be granted for nonconformities that are created or increased but are found justifiable to implement a proposed Site Redesign/Cure Plan.
- B. The following Site Redesign/Cure Plan standards and administrative approvals shall be authorized subject to this Section:
 - 1. Perimeter Landscaping
 - a. Landscape buffer width and planting requirements shall be replaced or upgraded to LDC requirements to the maximum extent possible.
 - b. An administrative approval may be granted to waiver from the landscape buffer width and planting requirements.
 - 2. Interior Parking Lot Landscaping

An administrative approval may be granted to waiver from the required interior landscape area and minimum landscape island area and dimensional requirements.

3. Parking Spaces

- a. An administrative approval may be granted to waiver from the minimum parking space requirement.
- b. An administrative approval may be granted to waiver from the parking standards to permit an increase in the percentage of compact parking spaces relative to standard spaces and to reduce drive aisle width dimensions.

4. Other LDC Provisions (Excluding Sign Requirements)

An administrative approval may be granted to waiver from all other LDC requirements, including, but not limited to setbacks, open space, density, ISR and FAR, excluding those standards contained herein dealing with signs.

C. Site Redesign/Cure Plan submittal requirements are as follows:

1. Post-taking survey of the property subject to the eminent domain proceedings or negotiations.
2. A scaled site plan or cure plan showing proposed modifications with dimensions relative to, but not limited to, the following: building and sign setbacks, number of parking spaces, typical parking space dimensions, landscape buffer width, sign area, and height.
3. A table that compares pre-take, post-take (without proposed Site Redesign/Cure Plan modifications) and proposed site modifications relative to the following, where applicable: lot area and width; building square footage, coverage, and floor area ratios; impervious surface ratio and percent of open space; sign face area and setback; number of signs; number of parking spaces and typical parking space and drive aisle dimensions; and landscape buffer width and percent of interior parking lot landscaping.
4. Landscape planting plan or narrative description, if applicable.

10540. ADMINISTRATIVE REVIEW CRITERIA AND APPEALS

- A. The Director of the Land Development Division has the authority to administratively approve Site Redesign/Cure Plans. Approval of the Site Redesign/Cure Plan shall be deemed to be an approved final development order. In granting such administrative approvals, the Director shall make written findings and reach affirmative conclusions as to the following criteria:

1. The plan does not adversely affect the health, safety, and welfare of the public.
 2. The plan is the minimum necessary for the reasonable use of land and improvements.
 3. The plan does not adversely affect the rights or enjoyment of property of adjacent property owners.
 4. The plan is the result of a hardship imposed by eminent domain proceedings or negotiations.
- B. The Director of the Land Development Division may deny, approve, or approve with conditions any Site Redesign/Cure Plan request submitted pursuant to this Section.
- C. The property owner or condemning authority may appeal the decision of the Director to the Special Master.

10550. PROPERTIES SUBJECT TO APPROVED SITE PLAN

Where development of a property is subject to a planned development land use district or subject to the terms of a detailed site plan approved by the County, and said approval is currently valid (unexpired), a Site Redesign/Cure Plan, may be submitted and approved as a substitute pursuant to this Section. However, specific conditions of approval of the original planned development detailed site plan approval shall only be modified by the original approving authority.

10560. TERMS OF ADMINISTRATIVE APPROVAL

The granting of an administrative approval of the Site Redesign/Cure Plan is valid until such time as the site is redeveloped, whereby a Development Order is required. Construction related to implementation of the Site Redesign/Cure Plan shall not be considered redevelopment for purposes of this Section. Any plans submitted for redevelopment of the site shall meet all LDC requirements in effect at the time of submittal of redevelopment plans.

10600. PREVIOUSLY APPROVED DEVELOPMENTS

10610. PURPOSE AND INTENT

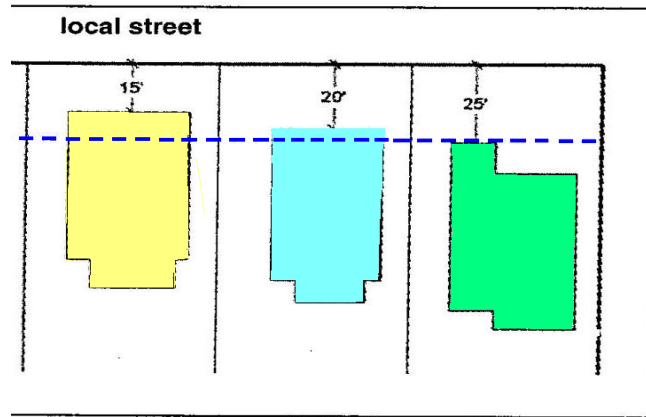
At the time of enactment of this LDC there may be established developments, including those approved under the previously as a Planned Development zoning category, or as a Planned Development Overlay, that have one or more vacant lots available for construction of new structures. In addition, there may be developments that are not under construction which have an approved site plan or an approved final subdivision plat. This section is intended to provide for compatibility in construction of new units in areas approved for development prior to enactment of this LDC. Construction on vacant lots within such established or approved developments is referred to as infill development. This section is provided for the purpose of describing standards for the approval of construction in infill situations.

10620. DEVELOPMENT STANDARDS

This section ensures that criteria applied to infill development describe minimum design and development standards to be met in order to obtain approval for proposed construction on vacant lots and to assure compatibility of construction between new units and existing development in the area.

- A. For a structure in a development with final approval, an application for building and/or other necessary permits shall be filed. However, if a request requires platting, replatting, or any deviation from the provisions of this LDC, an application for a development order must be made.
- B. Proposed structures shall conform to those standards or regulations in force at the time of development approval for the lot and its surrounding area.
 1. Determination of standards in effect at the time of approval shall include, but may not be limited to, the following:
 - a. Recorded subdivision plats.
 - b. Approved master plans or site plans, which have received a final development order from the governing board.
 - c. Unrecorded subdivision plats lawfully established prior to March 4, 1983, through survey by a Registered Surveyor and on file with the Department of Development Services prior to December 10, 1987.
 - d. The Citrus County Zoning Ordinance or any amendment thereto that was in effect at the time of development approval may be used to specify appropriate standards.

- e. Unrecorded subdivision plats lawfully established pursuant to Ordinance 83-01 prior to adoption of this LDC.
2. An approved development shall, in addition to meeting one or more of the criteria of Section 10620.B.1. of this LDC, be at least 10 percent developed in order to qualify for infill standards. However, those Development of Regional Impact (DRIs) approved by Citrus County pursuant to Florida Statutes shall be exempt from changes in the originally approved density requirements. DRIs shall be exempt from concurrency standards of this LDC.
 3. Applicable development standards include those imposed upon the initial development except standards for development in a floodplain and standards for stormwater management. Infill standards shall include, but may not be limited to, the following:
 - a. Minimum lot dimensions and area.
 - b. Minimum building size (gross floor area and building height).
 - c. Minimum yard setbacks on all sides.
 - d. Accessory uses, such as storage buildings or swimming pools.
 - e. Off-street parking requirements.
 - f. Dwelling unit type (single family, duplex, manufactured home, etc.).
 - g. Dedication or reservation of easements, rights-of-way, or park land.
 - h. Landscaping and sight barriers.
 - i. Sidewalks.
 4. Where no documentation is available concerning standards in effect at the time of initial development the following procedures shall be used:
 5. The six closest developed lots of similar use (i.e. residential, commercial, etc.) to the lot proposed for development shall be considered in determining standards for development. For corner lots, the six closest developed lots fronting the same street for which averaging is requested.



6. Actual setbacks, lot dimensions, building heights, etc. (see list in Section 10620.B.3. of this LDC) shall be determined for purposes of calculating an average (mean) for each standard imposed.
7. These average standards represent the minimum standards required for proposed development.
8. Where there is any uncertainty on an applicable standard, the decision shall be in favor of the stricter standard.

10630. DEVELOPMENT STANDARDS FOR PREVIOUSLY APPROVED PLANNED DEVELOPMENTS

- A. At the time of approval of some previously approved Planned Developments (PD), some development standards such as setbacks, impervious surface coverage limitations, and floor area ratios were not included within the recorded plat or development order. These PDs utilized the standards established within the Zoning Ordinance in effect at the time. To ensure consistent development the following standards are applicable to previously approved PDs, which do not have specified standards contained within the recorded plat or development order.

1980 ZONING ORDINANCE*

ZONE	FRONT	SIDE	SIDE (CORNER)	REAR
R-1	25 feet	7.5 feet	15 feet	15 feet
R-2	25 feet	7.5 feet	15 feet	15 feet
R-10	25 feet	10 feet	25 feet	25 feet

The 1980 Zoning Ordinance did not include waterfront setbacks or impervious surface ratio.

* If a project was approved as a Planned Development, under Articles 270-285 or Section 5478. of Ordinance 80-05 as amended, those specified standards apply rather than those cited in the table above.

1986 ZONING ORDINANCE**

ZONE	FRONT	SIDE	REAR	WATERFRONT***	ISR %
RE	50 feet	20 feet	100 feet	50 feet	20
RR-1	105 feet	20 feet	20 feet	50 feet	20
RS-1	25 feet	10 feet (combined yards not less than 25)	20 feet	50 feet	25
RS-10	25 feet	5 feet (combined yards not less than 15)	15 feet	50 feet	35
RG-1	25 feet	5 feet	15 feet	50 feet	40
RG-2(SF)	25 feet	5 feet (combined yards not less than 15)	15 feet	50 feet	40
RG-2(MF)	25 feet	10 feet	15 feet	50 feet	40

**If a project was approved or designated as a Planned Development, under Ordinance 86-12, Section 10001.C.1 standards for impervious surface ratio apply rather than those cited in the table above. The following applies instead:

	<u>Nonresidential</u>	<u>Residential</u>
Areas of Special Flood Hazard	40 percent	25 percent
Remainder of County	80 percent	50 percent

*** The 1986 zoning ordinance stated that there shall be a 50-foot setback from all natural bodies of water. Permits were issued using 50 feet from all natural bodies of water and 15 feet from manmade canals. A determination from the county legal staff at that time stated that the 50 feet should be from all bodies of water (natural or manmade). On May 09, 1989, under Ordinance #89-A37, the County allowed the 35-foot setback from the water with a berm/swale method of retaining runoff into the waterways.

- B. Unless land use categories (commercial, business, residential, etc.) are specifically defined within the controlling Development Order, development activity shall be controlled by this Land Development Code. When a proposed use is in question, clarification shall be determined pursuant to this LDC.

10700. INFRASTRUCTURE UPGRADE CURE PLAN / INFRASTRUCTURE REDESIGN CURE PLAN

- A. Unrecorded subdivisions or recorded subdivisions in which improvements were not installed or completed frequently benefit from upgrades or installation of infrastructure to address public health, safety, and welfare concerns. The ability to design and construct these improvements to current standards and mitigate, either wholly or in part, the infrastructure deficiencies is often impeded by prior design, platting, or site limitations. The intent of this section is to facilitate post development infrastructure installation through the submittal and approval of an Infrastructure Redesign/Cure Plan. Certain variances, as enumerated in this section,

may be granted by the Board of County Commissioners after a recommendation for approval by the Director of Public Works or his designee. This section by no means removes or modifies any requirements for permitting by other applicable agencies.

B. The following Infrastructure Redesign/Cure Plan standards and variance approvals may be authorized subject to this Section:

1. Right of Way Width - The cure plan may provide for the construction in existing right-of-way width which is less than requirements found elsewhere in this code. This section does not provide for the reduction in width of existing right-of-way. The minimum width for rights-of-way where an open swaled section is to be used is 40 feet. In the case of a closed drainage system the width may be reduced to a minimum of 30 feet.
2. Pavement Width - The cure plan may include a reduction of the pavement width on residential roads where the average daily traffic will not exceed 500 vehicles per day to a minimum of 18 feet with a minimum three-foot stabilized shoulder where swaled sections are utilized.
3. Drainage Design - It is the applicant's responsibility to obtain an Environmental Resource Permit (ERP) through the Southwest Florida Water Management District (SWFWMD). The requirements for the storage and treatment of storm water runoff shall be assumed to be met upon the acquisition of that permit. Prior to County approval, the applicant shall demonstrate that a SWFWMD Environmental Resource Permit application has been submitted for agency review and approval.
4. Drainage Conveyance System Standards (excluding offsite discharge) The design storm for the stormwater conveyance system for both open and closed drainage systems may be reduced to a 10-year storm event. The applicant may, upon approval of the Public Works Director, reduce the design storm in specific areas of the development after sufficient drainage calculations (prepared by a Florida registered engineer) are provided to demonstrate that there will be no adverse impacts to private property or the motoring public during a 10-year event.

C. Site Redesign/Cure Plan submittal requirements are as follows:

1. Survey of the property(ies) of the project or subdivision(s). Survey shall also include any easements that will be provided.

2. A scaled site plan or cure plan showing proposed modifications with dimensions relative to, but not limited to, the following: right-of-way width, pavement width, drainage structures, drainage conveyance systems, drainage retention / detention areas.
3. A signed and sealed improvement plan(s) prepared by an engineer licensed to practice within the State of Florida providing details on all variances sought and supported by data and analysis which reflects that sound engineering practices have been incorporated to ensure the protection of public, health, safety, and welfare. The plans shall reflect an analysis taking into account allowable impervious surface ratio, soil type(s), pre- and post-grading and topography, contributing watershed area, proposed infrastructure improvements, ownership, and maintenance responsibilities for the infrastructure and modeling reflecting conveyance and mitigation of major storm events. Plans shall provide drainage retention area/drainage detention area (DRA/DDA) cross sections, conveyance systems profiles, drainage structure details, and any other information to demonstrate the performance and detail of the drainage system.
4. Landscape planting plan or narrative description, if applicable.
5. Soil borings within each DRA/DDA to a minimum depth of 10' below proposed DRA/DDA bottom elevation.
6. Depth to Seasonal High Water Table and confining layer.
7. Soil survey map.
8. Flood area map.
9. Finished Floor Elevation for each lot.
10. Erosion Control Plan.
11. Documentation of submittal for an Environmental Resource Permit , or exemption through the Southwest Florida Water Management District, along with sufficient documentation of a pending permit issuance from that agency.

(Ordinance No. 2013-A08, Section 10150., adopted April 23, 2013)