

# DRAFT

City of Apalachicola  
Ordinance # 2016-04

An Ordinance of the City of Apalachicola, Florida, amending ordinances 86-3, 87-1, 87-2, 91-7, 2005-05, 2005-06, 2005-07, 2005-08, 2005-09, 2006-01, 2006-02, 2008-01 providing for amended definitions, and amended/new regulations and administrative procedures relating to fences, travel trailers, solar equipment, historic squares, stormwater and quasi-judicial hearing process; providing for the repeal of all ordinances in conflict herewith; and providing for an effective date.

WHEREAS, Section 7 of the Charter of the City of Apalachicola empowers the City to establish zoning ordinances and regulation and to provide for its administration, enforcement and amendments; and

WHEREAS, Chapter 163, Florida Statutes empowers and requires the City to establish land-use code and provide for its administration, enforcement and amendments; and

WHEREAS, the City Commission deems it necessary for the purpose of promoting the health, safety, morals and general welfare of the City of Apalachicola and its people to amend its present zoning Ordinance and Land Development Code; and

WHEREAS, the Planning and Zoning Commission of the City of Apalachicola, after public hearings pursuant to due notice has recommended to the City Commission proposed amendments to the Land Development Code of the City of Apalachicola, Florida by amending the zoning regulations relating to definitions, regulation, administration and process with amended sections attached thereto and incorporated therein; and

WHEREAS, the City Commission after due notice and advertising of the proposed amendments as recommended by the Planning and Zoning Commission, accept and enact such proposed amendments as set forth herein;

NOW, THEREFORE E IT ENACTED BY THE PEOPLE OF THE CITY OF APALACHICOLA, FLORIDA, THE FOLLOWING ORDINANCE PROVISIONS REGARDING THE ZONING REGULATIONS AND LAND DEVELOPMENT CODE FOR THE CITY OF APALACHICOLA FLORIDA:

**SECTION I.** Ordinance numbers 86-3, 87-1, 87-2, 91-7, 2005-05, 2005-06, 2005-07, 2005-08, 2005-09, 2006-01, 2006-02, 2008-01, are hereby amended by incorporating therein the following provisions:

1. SECTION II. LANGUAGE AND DEFINITIONS IS HEREBY AMENDED AND ADDED AS FOLLOWS.

ADDITIONS

**Specialty store-** means a retail store of less than 5,000 square feet specializing in a specific type of product. Retail specialty stores concentrate on selling one merchandise line of goods for a particular product range and associated items. Examples may include video tapes, bagels, leather goods, and auto supplies. Specialty retailers have a narrow but deep selection in their specialty

**Convenience store** – A retail store with a floor area of less than 5,000 square feet that sells groceries and may also sell gasoline; does not include automotive service stations or vehicle repair shops. Any retail establishment offering for sale a limited line of groceries and household items intended for the convenience of the neighborhood. Hours of operation of such stores may also be extended over other types of food stores.

**Modular Manufactured Home**—Residence comprised of one (1) or more factory-built closed structures, building assemblies, or systems of subassemblies manufactured under the Florida Manufactured Building Act of 1979 (Florida Statutes 553.35) and certified by the Department of Business and Professional Regulation as complying with the structural requirements of the Florida Building Code. Modular Manufactured homes are regulated by this City code as Dwellings, One- (Single) Family. For the purpose of interpretation, a modular home is a manufactured home. A “mobile home,” which is defined separately in this City code, is not a modular home.

Modular Home – See Manufactured Home.

**Mobile Home**—Any residential unit constructed to manufactured (mobile) home standards promulgated by the United States Department of Housing and Urban Development (Florida Building Construction Standards, Florida Statutes 553.36(14)). The term does not include any self-propelled recreational vehicle. Generally, a mobile home is a structure transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure (Florida motor vehicle licenses, Florida Statutes 320.01(2)(a)).

**Transient Accommodations-** Any unit, group of units, building or group of buildings within a single complex of buildings, which is 1) rented for periods of less than 30 days or 1 calendar month, whichever is less; ~~or which is 2) advertised or held out to the public, as a place regularly to transients.~~ See Transient Lodging Ordinance 2005-08 for specific standards. For the purpose of interpretation, forms of Transient Accommodations include the following:

1. **Motel:** a structure containing accommodation units under one ownership located on one (1) tract of land designed primarily for access by automobile. Overnight guests may stay for longer periods than overnight – not to exceed periods of more than 30 days or 1 calendar month per any calendar year. A motel dwelling is hereby defined as a single room or group of rooms with facilities that are used or intended to be occupied for sleeping and sanitation by one family at a time. Cooking or laundry facilities shall not be provided in said rental unit.

2. **Hotel:** A structure primarily for transient guest and confined within one (1) principal building except for necessary accessory buildings. Overnight guests may stay for longer periods than overnight- not to exceed periods of more than 30 days or 1 calendar month per any calendar year. A hotel dwelling is hereby defined as a single room or group of rooms with facilities that are used or intended to be occupied for sleeping and sanitation by one family at a time. Cooking or laundry facilities shall not be provided in said rental unit.
3. **Bed and Breakfast:** A place where tourist, transients, travelers or persons desiring overnight accommodations are provided with sleeping and sanitary facilities. Cooking facilities shall not be provided in an individual bed and breakfast room but are allowed within a common kitchen area. The number of transient rooms in a bed and breakfast facility shall not exceed 10.

**Recreation Vehicle-** Temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. As defined at F.S. 320.01(b), recreation vehicle includes travel trailers, camping trailers, truck campers, motor homes, private motor coaches, van conversions, park trailers, and fifth-wheel trailers.

**Major recreational equipment** means any large motorized or non-motorized vehicle used for recreational purposes, such as motor homes, trailers, campers and camper shells, boats and trailers, converted buses and trucks and trailers, cases or boxes on wheels used to transport and/or store equipment, as well as any vehicle required to carry an "RV" tag or not licensed for legal street use.

**Travel Trailer-** A recreation vehicle portable unit, mounted on wheels, primarily designed and constructed to provide temporary living quarters for recreational, camping, or travel use. It has a body width of no more than 8 1/2 feet and an overall body length of no more than 40 feet when factory-equipped for the road.

**Recreation Vehicle Park-** A park for recreation vehicles licensed and approved by the Florida Department of Health.

**Surface drive areas** means any surface drive areas (except public right-of-way) used for the purpose of driving, parking, storing, or display of vehicles, boats, trailers, mobile homes, including new and used car lots and other open lot uses. No roofed structures shall be considered as surface drive area.

**Low Impact Development -** Low Impact Development (LID) is an innovative stormwater management approach with a basic principle that is modeled after nature: manage rainfall at the source using uniformly distributed decentralized micro-scale controls. LID's goal is to mimic a site's predevelopment hydrology by using design techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source. Techniques are based on the premise that stormwater management should not be seen as stormwater disposal. Instead of conveying and managing / treating stormwater in large, costly end-of-pipe facilities located at the bottom of

drainage areas, LID addresses stormwater through small, cost-effective landscape features located at the lot level. These landscape features, known as Integrated Management Practices (IMPs), are the building blocks of LID. Almost all components of the urban environment have the potential to serve as an IMP. This includes not only open space, but also rooftops, streetscapes, parking lots, sidewalks, and medians. LID is a versatile approach that can be applied equally well to new development, urban retrofits, and redevelopment / revitalization projects.

### **Special Waterfront District**

The boundaries of the Special Waterfront District are identified as such on the Special Waterfront boundary map 1 and shall be interpreted to be the Federal Emergency Management Agency's A & V zones adjacent to the river and bay. The purpose of the Special Waterfront District is to afford special protection to areas close to the Apalachicola River and Bay system. See specific zoning districts for standards. See Maps Special Waterfront District Maps 1.

**Quasi-Judicial Hearing** - Similar to a court proceeding where affected parties are afforded more procedural safe-guards. In general, such hearings require findings of facts to reach conclusions of law that justify the decision. They usually depend on a pre-determined set of guidelines or criteria to assess the nature and gravity of the permission or relief sought, or of the offense committed. Applicable to the City Commission, Planning and Zoning Board and Board of Adjustment in proceedings involving special exceptions, variances and rezoning/comprehensive plan amendment requests. Personal notice must be mailed to property owners and occupants living within a prescribed distance of the affected area.

**Mechanical Equipment:** Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.

**Solar Energy System:** An energy conversion system, including appurtenances, which converts solar energy to a usable form of energy to meet all or part of the energy requirements of the on-site user. This definition shall include the terms passive solar and active solar systems.

**Material Alteration** - As used elsewhere in this code, material alteration shall be defined as construction, or change in appearance of the exterior. For buildings, structures or objects, material alteration shall include, but is not limited to, the changing of roofing or siding substances; changing, eliminating, or adding doors, door frames, windows, window frames, gutters, fences, railings, porches, balconies or other ornamentation. For buildings, structures or objects, material alteration shall not include ordinary maintenance repair and repainting.

**Fence** - For the purpose of the land development regulations, the term "fence" shall be used to describe a manmade structure erected for separation, security or privacy purposes through the means of intermittent posts supporting vertical or horizontal members made of wood or metal. While the opacity may vary, the height and location are dictated by the regulations within this code.

**Wall** - A structure of brick, stone, etc., that surrounds an area or separates one area from another.

## Propose to Delete

~~**Recreation Vehicle**~~ ~~**Recreation Vehicle**~~ The following types of vehicles enumerated are deemed recreation vehicles:

- ~~i. **Travel Trailers** - A vehicular, portable structure built on a chassis and towed; designed to be used as a temporary dwelling for travel, recreation and vacation uses; Permanently identifies "Travel Trailer" by the manufacturer on the trailer; and when factory equipped for the road, having a body width not exceeding eight (8) feet and a body length not exceeding thirty two (32) feet.~~
- ~~ii. **Pickup Coach** - A structure designed to be mounted on a truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation and vacation use.~~
- ~~iii. **Camping Trailer** - A collapsible, temporary dwelling structure covered with a water-repellent fabric mounted on wheels and designed for travel recreation and vacation use.~~
- ~~iv. **Auto Camper** - A lightweight, collapsible unit that fits on top of an automobile and into the truck with the cover removed and is designed for travel, recreation, and vacation use.~~
- ~~v. **All Terrain Vehicles** - Dune buggies, swamp buggies and the like shall be considered recreation vehicles, whether or not licensed as such by the State.~~
- ~~vi. **Van** - a vehicle specially equipped for camping.~~

~~**Travel Trailer Park or Court** - A park or court, licensed and approved by the Florida Department of Health and Rehabilitative Services, and established to carry on the business of parking travel trailers.~~

*(The following is Inserted from Ordinance 2008-01 into the definitions section II.)*

**Complaint** – A written grievance by a citizen, group, agency, etc. directed to the City Administrator questioning the decision of the building inspector, Planning and Zoning or standards of construction according to the Building Code. When a complaint is received, the building inspector will review said project and ask Planning and Zoning to review if appropriate. A complaint does not automatically constitute the issuance of a stop work order unless such grievance is a safety issue or violation of the building code. If the building inspector and Planning and Zoning find that the grievance does not merit further city action, the complainant may file a formal appeal as established herein.

**Appeal** – A written challenge to the City Commission (with or without legal representation) of a decision of the Planning and Zoning, Board of Adjustment (relating to variances), building inspector (relating to code content, building standards or zoning issues). The appeals process

shall be followed in accordance with procedures outlined in Section III – Enforcement and Administration. An appeal does not automatically constitute the issuance of a stop work order unless such grievance is a safety issue or violation of building code. However, all development which proceed during the appeals process is at risk.

**Impact development** – A development of such a size or nature that would have the potential to adversely affect the visual or architectural compatibility of a neighborhood or would impact concurrency standards such as traffic or infrastructure.

**Alteration-** any change in the arrangement of a building; any work affecting the structural parts of a building; or any change in zoning classification, a conditional use, a variance or an appeal. See Also Material Alteration.

**Applicant-** The record owner, or his authorized representative, of a tract of land, which is the subject of a request.

## DELETIONS

~~**DCA approved manufactured building**— any factory built structure building assembly or system of subassemblies that is manufactured or constructed under the authority of F.S. §§553.35— 553.42, known as the Florida Manufactured Building Act of 1979. All such manufactured buildings shall meet the requirements of, and bear the insignia of approval of, the State of Florida Department of Community Affairs.  
LDC section IV, Zoning Districts and Regulations~~

~~**Mobile Home**— a movable or portable detached single family dwelling designed for and capable of being used for long term occupancy, designed to be transported after fabrication on its own permanent chassis and wheels, arriving at the site substantially complete, of such size and weight as to require special highway movements permits, and it excess of eight (8) feet in width and thirty two (32) feet overall length, as measured for the ball joint to the rear bumper but not exceeding twenty four (24) feet in width and seventy five (75) feet in length. A mobile home shall be transportable, manufactured, suitable for real estate and utilized for no transient purposes. The mobile home shall contain the same water supply, waste disposal and electrical conveniences as conventional housing.~~

~~**Modular Factory Built Homes**— A modular unit residential building comprised of one (1) or more dwelling units, or habitable rooms or components parts thereof, which is either wholly manufactured or is a substantial part constructed in central manufacturing facilities and bears the approval of the Department of Community Affairs under the provisions of the Housing Act of 1971. However, this term does not apply to mobile homes, as defined by Chapter 320, Florida Statutes. Modular homes are regulated by this code as Dwellings, Single Family.~~

~~**Recreation Vehicle—Recreation Vehicle**—The following types of vehicles enumerated are deemed recreation vehicles.~~

- ~~vii. **Travel Trailers**—A vehicular, portable structure built on a chassis and towed; designed to be used as a temporary dwelling for travel, recreation and vacation uses; Permanently identifies “Travel Trailer” by the manufacturer on the trailer; and when factory equipped for the road, having a body width not exceeding eight (8) feet and a body length not exceeding thirty-two (32) feet.~~
- ~~viii. **Pickup Coach**—A structure designed to be mounted on a truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreation and vacation use.~~
- ~~ix. **Camping Trailer**—A collapsible, temporary dwelling structure covered with a water-repellent fabric mounted on wheels and designed for travel recreation and vacation use.~~
- ~~x. **Auto Camper**—A lightweight, collapsible unit that fits on top of an automobile and into the truck with the cover removed and is designed for travel, recreation, and vacation use.~~
- ~~xi. **All Terrain Vehicles**—Dune buggies, swamp buggies and the like shall be considered recreation vehicles, whether or not licensed as such by the State.~~
- ~~xii. **Van**—a vehicle specially equipped for camping.~~

~~**Special Waterfront District**—the boundaries of the Special Waterfront District are and shall be interpreted to be coterminous with the Federal Emergency Management Agency’s A & V zones adjacent to the river and bay. The purpose of the Special Waterfront District is to afford special protection to areas close to the Apalachicola River and Bay system. See specific zoning districts for standards. See attachments for map.~~

~~**Transient Accommodations**—Any unit, group of units, building or group of buildings within a single complex of buildings, which is 1) rented for periods of less than 30 days or 1 calendar month, whichever is less; or which is 2) advertised or held out to the public, as a place regularly to transients. See Transient Lodging Ordinance 2005-08 for specific standards. Forms of Transient Accommodations include, but are not limited to, the following:~~

- ~~4. **Motel**: a group of transient accommodation units under one ownership located on one (1) tract of land designed primarily for access by automobile. Overnight guests may stay for longer periods than overnight—not to exceed periods of more than 30 days or 1 calendar month per any calendar year. A motel dwelling is hereby defined as a single room or group of rooms with facilities that are used or intended to be occupied for sleeping and sanitation by one family at a time. Cooking or laundry facilities shall not be provided in said rental unit.~~
- ~~5. **Hotel**: A structure primarily for transient guest and confined within one (1) principal building except for necessary accessory buildings. Overnight guests may stay for longer periods than overnight—not to exceed periods of more than 30 days or 1 calendar month per any calendar year. A hotel dwelling is hereby defined as a single room or group of rooms with facilities that are used or intended to be occupied for sleeping and sanitation by one family at a time. Cooking or laundry facilities shall not be provided in said rental unit.~~

6. ~~**Bed and Breakfast:** A place where tourist, transients, travelers or persons desiring overnight accommodations are provided with sleeping and sanitary facilities. Cooking facilities shall not be provided in an individual bed and breakfast room but are allowed within a common kitchen area. The number of transient rooms in a bed and breakfast facility shall not exceed 10.~~

~~**Travel Trailer Park or Court**—A park or court, licensed and approved by the Florida Department of Health and Rehabilitative Services, and established to carry on the business of parking travel trailers.~~

~~**Appeal**—a request for a review of the cities interpretation of any provisions of this Code or a request for a variance.~~

~~**Wall**—See Fences, Hedges and Walls.~~

~~**Fences, Hedges, and Walls**—Dividers between two properties.~~

~~**Alteration**—any change in the arrangement of a building; any work affecting the structural parts of a building; or any change in zoning classification, a conditional use, a variance or an appeal.~~

## **2. SECTION E – SUPPLEMENTAL REGULATIONS. NEW ADDITION AS NUMBER 12.**

### **12. Special Overlay District Historic City Square**

The City's historic squares are identified as Washington Square, Gorrie Square (originally City Square), Chapman Square (Originally Marshall Square), Franklin Square and Madison Square and City Square (originally White Square). As identified on the City of Apalachicola Zoning Map. Four of the squares (Gorrie, Chapman, Madison and Franklin) are located near each of the east, west, north and south corners of the City's historic district boundary. The City Square is located southeast of the central Washington Square.

**The City of Apalachicola Historic City Squares.** The land use classification of the Squares identified above is Public Facilities, Historic Squares. That land use classification is defined broadly as open space and passive recreation.

The City's historic squares are identified below along with an inventory of current use (August 2014).

#### ***Gorrie Square***

Current use on these lots include Gorrie Memorial, Apalachicola Municipal Library and Gorrie Museum.



### ***City Square***

Current use is an open-air pavillion, community garden and vacant.

### ***Franklin Square***

Current use is tennis courts, playground, open-air pavillion, Holy Family Senior Center, Block building with fenced playground.

### ***Madison Square***

Current use is water tower, skatepark and vacant.

### ***Chapman Square***

Current use is tennis courts and vacant.

### ***Washington Square***

Current use is Weems Hospital, Love Center Plex, Apalachee Center, Franklin County Health Department, Weems Medical Center.

The following development restrictions shall apply to all Square parcels as defined above (except Washington Square) located within the Historic City Square overlay. The development restrictions do not apply to the Washington Square parcel or to State-owned property within the Squares.

### **Development Standards.**

No new visible structure-development other than public infrastructure projects as approved by Planning & Zoning will occur on Historic Squares listed above. All renovation of existing structures on Historic Squares will be designed to minimize footprint and maximize open space design in accordance with Historic Square public space intent. All proposed development activity must be approved for historic compatibility by the City's Planning & Zoning Board and Architectural Review Board.

## **3. SECTION VIII – Stormwater Amendments and Deletions.**

### **A. Applicability**

- ~~1. An Environmental Resource Permit from the Northwest Florida Water Management District (NFWMD) or Department of Environmental Protection (DEP), as determined by the Operating Agreement between the two agencies, in accordance with Chapter 62-330, F.A.C., "Environmental Resource Permitting," shall be required for all new development prior to the issuance of a building permit.~~
2. All applications for new commercial and residential development and redevelopment and minor repair which expands the development footprint shall include stormwater management provisions as part of the site plan which assures that the post-development peak discharge rate, volume, and pollution load of stormwater is no greater than that which existed before development. In the case of redevelopment, existing nonconformities may not be grounds for exemption

from these standards. Provisions range between stormwater treatment facilities as summarized in this section and the best management and low impact development practices summarized in sections 5c-e below. Refer to the City's floodplain management brochure and stormwater management booklet for guidance.

3. Depending on the size, location and type of the development planned, an Environmental Resource Permit from the Northwest Florida Water Management District (NFWFMD) or Department of Environmental Protection (DEP), as determined by the Operating Agreement between the two agencies, in accordance with Chapter 62-330, F.A.C., "Environmental Resource Permitting," may be required. Design and performance standards and basin design and criteria are set forth in the NFWFMD's Environmental Resource Permit Applicant's Handbook Volume II.
4. Small scale Residential and Commercial development exempt from state permitting requirements are still required to provide a stormwater plan as part of the site plan requirements. Such stormwater provisions may use required open space as part of their stormwater plan provided such space is maintained as unobstructed open space swale or equivalent. Direct connection conveyances between gutters into storm sewers are not allowed. Stormwater flow paths for property as it is planned to be developed shall be determined and berms, shallow depressions, swales, landscaping and other stormwater management practices shall be included in the plan to intercept, infiltrate and treat stormwater before it reaches storm sewer conveyances.
5. If it is determined that a proposed development requires state stormwater permits, all such required state stormwater permits shall be submitted prior to the issuance of a Certificate of Occupancy or final building official inspection. Additionally, prior to the issuance of a construction permit, the applicant shall be required to sign an affidavit stating that he/she understands that his/her development is subject to submission of all appropriate state stormwater permits prior to the issuance of a Certificate of Occupancy and/or final building inspection.
6. New development proposed to include fill as part of the development plan must include engineered plans documented the amount of fill along with a detailed plan for maintaining runoff onsite.

5. All development proposed for the City's Special Waterfront District (as defined) is required to submit either a site suitable stormwater management permit plan or, if applicable, a permit. All development planned for the Critical Shoreline District shall include stormwater management system shall be provisions designed in accordance with the following standards:

- a. Prior to and during land clearing and construction, a sediment control barrier such as hay bales or filter fabric shall be installed between the area to be cleared and wetlands or waters. In addition, flow paths of stormwater from surrounding lands shall be determined; if stormwater flow is toward areas to be cleared, measures shall be taken to redirect the stormwater toward vegetated land.
- b. Only those areas necessary for construction activities should be cleared. During construction, stormwater barriers shall be inspected and

maintained, and building debris shall be removed from the stormwater flow path and deposited into trash receptacles.

- c. Stormwater impacts shall be minimized by using site suitable Best Management Practices (BMPs) which maximize infiltration of stormwater and minimize offsite discharge. Stormwater flow paths for property as it is planned to be developed shall be determined and berms, shallow depressions, swales, landscaping and other stormwater management practices shall be included in the plan to intercept, infiltrate and treat stormwater before it reaches wetlands or waters. Sample BMPs and guidance are provided in the City's Floodplain Management Brochure and Stormwater Management Booklet.
- d. The use of Low Impact Development practices (as defined) is strongly encouraged.

B. General Design Requirements for Commercial Development Requiring Treatment Beyond BMP standards.

1. A stormwater management system shall be provided to assure that the stormwater peak discharge rate; volume and pollutant load is no greater after development than before development.
2. The stormwater system shall be designed in accordance with Chapter 62-330, F.A.C., except that detention with filtration systems shall not be allowed and that off-line retention systems shall be used whenever the soil conditions will allow percolation of the treatment volume within 72 hours. When soil conditions will not allow infiltration practices to be used, the stormwater system shall consist of a wet detention system with a vegetated littoral zone, or optionally, an appropriately increased permanent pool volume. To enhance the effectiveness of the wet detention system, landscape retention pretreatment practices such as the placement of storm sewer inlets in grassed areas shall be employed in combination with the detention system.
3. To provide flood protection, the additional volume generated by the development from a 25 year frequency 24 hour duration storm event shall be controlled by a detention facility and released at a rate of discharge not to exceed the peak discharge rate from the site in its undeveloped condition. Special engineering features shall be incorporated to minimize the transport of pollutants remaining in the detention facility.
4. No direct connection between retention and detention facilities shall be allowed. Flow from the retention facility shall be filtered naturally by percolation through the soil.
5. All detention facilities shall discharge design flow through structural discharge facilities. When direct discharge will degrade waters of natural streams, marshes, environmentally sensitive areas shellfish classification waters, or lands naturally receiving sheet flow, the discharge structure shall direct the flow to an intermediate spreader swale system.
6. All discharge structures shall be designed to trap floating debris and pollutants on site.

7. A 220-foot wide maintenance berm will be required around wet detention facilities and those dry facilities with slopes steeper than 4:1.
8. Stormwater management systems shall be designed for ease of maintenance and operation and low maintenance costs. It is suggested that the required stormwater system be integrated into a site's open areas and landscaping and that they be used as recreational or park areas. The system should be constructed in such a manner (i.e. gentle slopes, grassed, plantings, etc.) that it will be an amenity to the development.
9. Projects that are to be developed in phases will normally require the submission of a master plan of the applicant's contiguous land holdings. Applications for individual project phases may be considered only when the phases and the stormwater systems are totally independent of adjacent lands.
10. No new untreated point sources of discharge will be permitted. Specific Authority Chapter 373.413 (1). F.S.. Law implemented. History – New

#### C. Stormwater Management Plan Requirements

1. Whenever possible, the information to be submitted by the applicant may be combined with information required for site plan review and with information required by the NFWFMD or DEP for an environmental resource permit pursuant to Chapter 62-330, F.A.C.
2. It is the responsibility of the applicant to include in the Stormwater Management Plan sufficient information for the City to evaluate the environmental characteristics of the affected areas, the potential and predicted impacts of the proposed activity on community waters, and the effectiveness and acceptability of those measures proposed by the applicant for reducing adverse impacts. The Stormwater Management Plan shall contain maps, charts, graphs, tables, photographs, narrative descriptions, calculations and explanations and citations to supporting references, as appropriate to communicate the information required by this section. At a minimum, the Stormwater Management Plan shall contain the information listed below:
3. General Information
  - a. The applicant's name, address and telephone number.
  - b. The owner's name, address and telephone number if different than the applicant.
  - c. The project name.
  - d. The project area in acres, the dimensions of the site, and the total land area owned or controlled by the applicant or owner which is contiguous with the project area.
  - e. A description of the scope of the proposed project including the land uses to be served.
4. Site Information Specific to the Project Area.
  - a. A detailed location sketch showing the parcel, major adjacent roads, water bodies, wetlands, etc., at an appropriate scale.

- b. A recent aerial photograph of the project area and the surrounding areas at a scale no smaller than one inch equals 800 feet with the project area and the total land area identified.
- c. A detailed overall area map showing drainage basin boundaries; existing hydrograph and runoff patterns; the location and description of all watercourses, water bodies, flood plains and wetlands or adjacent to the site; the location of areas on the site where stormwater collects or percolates into the ground; and the size, location and land use of any off site areas which drain onto, through or from the project area.
- d. A map showing topography at a minimum contour interval of one foot, vegetative cover, soils and seasonally high water table elevations. Also show the location of any soils boring or percolation tests.
- e. An engineered plan showing fill, if proposed, and the method for retaining runoff onsite including drawings and documentation for swale, berm or other structure required for onsite retention of runoff.

5. Master Development Information

- a. Paving, grading, landscaping and construction plans showing the location, dimensions, specifications and proposed elevations of all roads and buildings.
- b. Stormwater management plan showing all components of the stormwater system including drainage basin boundaries showing the direction and rate of flow of stormwater; details of hydrograph, side slopes, depths, elevations of all system components including wetlands, a topographical map with a minimum contour interval of one foot.
- c. Construction plans and specifications for all components of the stormwater management system.
- d. An erosion and sediment control plan to retain sediment on-site. The plan shall describe, in detail, the type and location of control measures the stage of development at which they will be put into place and provisions for maintenance.
- e. A description of scheduled maintenance needs of the stormwater system.
- f. Right-of-way and easement locations for the stormwater system shall be shown on the stormwater plan.
- g. Identification and description of any additional best management practices to be used I the project.

6. Calculations to be Submitted

- a. All runoff calculations used in the design of the stormwater system including a description of the methodology, assumptions and parameters. Include calculations showing discharges, elevations and volumes retained or detained and the volume of stormwater treated for applicable design storm events. If a computer program is used for analysis, a copy of the printout shall be submitted.
- b. Computations of stage-storage and stage-discharge for all structures.

- c. Computation of off-site inflows.
- d. Actual acreages and percentage of the project area for impervious surfaces, natural water bodies and wetlands, artificial lakes, retention or detention area, swales, pervious surfaces and total project area.
- e. Computation of pre-development and post-development runoff and storage.

7. Legal and Institutional Information

- a. A copy of a boundary survey and evidence of ownership or control.
- b. Identification of the entity responsible for the perpetual care, operation, maintenance, and associated liabilities of the system. If the entity is to be a public body such as a county, municipality, or special district, a letter or other evidence of acceptance must be included. If the entity is a non-public body such as a homeowner's association or private corporation or person, documentation of its existence, fiscal and legal ability, and willingness to accept the responsibility must be included.
- c. The stormwater management plan shall be prepared and sealed by a professional engineer registered in the State of Florida.

**4. SECTION IV. SOLAR ADDITION TO SECTION E AS NUMBER 13.**

13. SOLAR ENERGY SYSTEMS

A solar energy system shall be permitted in any zoning district as an accessory to a principal use herein and subject to specific criteria as set forth below. Where said general standards and specific criteria overlap, the specific criteria shall supersede the general standards.

- 1. The installation and construction of a solar energy system shall be subject to the following development and design standards:
  - A. A solar energy system is permitted in all zoning districts as an accessory to a principal use.
  - B. A solar energy system may be roof mounted or ground mounted.
  - C. A roof mounted system may be mounted on a principal building or accessory building. A roof mounted system, whether mounted on the principal building or accessory building, may not exceed the maximum principal building height or accessory building height specified for the building type in the underlying zoning

district. In no instance shall any part of the solar energy system extend beyond the edge of the roof.

- D. All solar systems shall not exceed the maximum building height.
- E. The surface area of a ground mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.
- F. A ground mounted system or system attached to an accessory building shall not be located within the required front yard.
- G. The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.
- H. All mechanical equipment associated with and necessary for the operation of the ground solar energy system shall comply with the following:
  - a. Mechanical equipment shall be screened from any adjacent property. The screen shall consist of shrubbery or trees which provide a visual screen. In lieu of a planting screen, a decorative fence meeting the requirements of the Zoning Ordinance may be used.
- I. Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.
- J. All power transmission lines from a ground mounted solar energy system to any building or other structure shall be located underground.
- K. A solar energy system shall not be used to display advertising, including signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials. The manufacturers and equipment information, warning, or indication of ownership shall be allowed on any equipment of the solar energy system provided such information is discrete and not easily visible from the public view.
- L. A solar energy system shall not be constructed until a building/zoning permit has been approved and issued. Installer

shall be approved or licensed by the solar equipment manufacturer.

M. The design of the solar energy system shall conform to applicable industry standards. A building permit shall be obtained for a solar energy system. Existing roof structures shall be assessed by a licensed structural engineer to assure the structural integrity of the roof to support a solar system.

#### **5. SECTION IV. E. 4. REPLACE STANDARDS FOR FENCES**

4. Fences shall be erected on the lot of the applicant and shall not extend into a public right-of-way. The fence may abut but shall not be located on any property line. It shall be unlawful for any person to erect a fence within the city except in accordance with the following:

(1) In the city's residential areas the following restrictions as to fence height and construction shall apply:

a. Solid or open fences not exceeding 48" in height constructed of wood, or other approved material may be permitted.

b. If there are located utility electrical transformer banks, water towers or other facilities owned or leased by a public utility in residential zones which require the fencing of such for safety precautions, the fence around such facilities shall be at least seven-feet in height.

Notwithstanding other provisions of this code, fences and walls may be permitted in any required yard or along the edge of any yard; provided that no fence or wall in excess of seven feet shall be permitted in any residential zoning district. No fence or wall in excess of 48" in height shall be permitted to encroach into the required front yard of any lot in a residential district or, in the case of a nonconforming front yard setback, a fence may not extend past the front building line of the structure. No fence, wall, hedge or other visual barrier exceeding thirty (30) inches in height shall be permitted within fifty (50) feet of any intersection.

Visibility at intersections in residential districts. On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such manner as materially to impede vision between a height of thirty (30) inches and ten (10) feet above the center line grade in the area (50) feet from the point of the intersection.

Within the intent and meaning of this code, chain link fences, within all historic preservation districts of the city abutting a playground or a court devoted to handball, paddle ball, tennis or similar sports, shall constitute a permissible use by special exception.

Fence Standards within Historic District:



Fences are important elements of the design and character of historic structures and districts. The scale and character of fences, posts and gates must be compatible with the house and the neighboring structures.

1. Fencing shall be constructed so the finished face is toward the street or public area.
2. Design and construction of fences or changes to existing fences must be approved and permitted.
3. A picket fence up to 48” in height is permitted at the front of the structure; if a building is located on a corner lot, this height shall be consistent on street facing elevations, at least to the front edge of the structure. Picket fences shall be constructed in proportion to historic dimensions.
4. Seven-foot high fences may be permitted on side and rear property lines only. All front elevation fences should not exceed 48” in height, unless there is a previous masonry and wood or iron picket combination fence.
5. Fences may begin from the rear of where the facade of the house joins the front porch.
7. Traditional historic fencing includes wood pickets, wrought iron, concrete, brick, wire and combinations of these materials. Fencing should be designed with respect for the site land environment.
8. Fence heights will be measured from the sidewalk or from the level of the grade, whichever is highest.
9. Fences erected within the required setback area (i.e., between the property line and the setback line) are subject to the same height restrictions as fences erected on the property line.

*Building permit; review.* Notwithstanding other sections of the land development regulations, fences, walls, hedges, landscaped berms, and minor structures such as lampposts (standards) or flagpoles (permanent type) may be permitted in any district subject to issuance of a building permit. Fences in the historic district shall also be subject to review by the historic architectural review commission as part of the permitting process.

*Application procedure.* Application for approval of any fence should be made in the same manner as for authorization of a building permit with a full description of materials to be used and dimensions and placements clearly stated on the plans. The building official will inspect the area and judge the application on the basis of the guidelines for fences and other minor structures set forth in subsection (d) of this section.

**6. QUASI-JUDICIAL. SECTION 1. FROM AND AFTER THE EFFECTIVE DATE OF THIS ORDINANCE, SECTIONS IIIA1 (CITY COMMISSION), IIIA2 (PLANNING AND ZONING BOARD), IIIA3 (BOARD OF ADJUSTMENT), , OF THE DEVELOPMENT CODE OF THE CITY OF APALACHICOLA RELATED TO HEARINGS ARE AMENDED TO READ AS FOLLOWS**

**INTENT**

The following sections lay out the procedures for administering the City’s Quasi-Judicial (QJ) hearing process as it applies to the Apalachicola Land Development Code and associated ordinances for special exceptions administered by the Planning & Zoning Board and variances administered by the Apalachicola Board of Adjustment. The QJ hearing process shall also apply to the City Commission as it relates to all applicable land use decisions. The QJ process is not intended to apply to the Architectural Review Process by the City’s Architectural Review Board.

## APPLICABILITY

Commission. These rules shall apply to all applicable land use decisions and development order approvals and appeals.

Planning and Zoning Board. These rules shall apply to all Special Exceptions.

Board of Adjustment. These rules shall apply to all Variance requests.

## DEFINITIONS

**Applicant** means the owner of record, or owner's agent, or any person with a legal or equitable interest in the property that is the subject of the proceeding who submits an application to the City.

**Adversely affected:** property interest or constitutionally protected liberty.

**Adversely affected party** – means person or persons allegedly aggrieved, impaired, or wronged from a decision or action of the Commission, P&Z or BOA

**Competent substantial evidence:** Evidence that is legally sound, reliable, relevant, tends to prove the points, establishes a reasonable, substantial justification for the point argued; and a reasonable mind would accept it as enough to support the argued for conclusion. Evidence of real worth and importance; of considerable value; valuable. Belonging to substance; actually existing; real; not seeming or imaginary; not illusive; solid; true; veritable

**Ex parte communications** any written or oral communications with Commission or Board members other than those made on the record at the time of the hearing.

**Local public official** means any elected or appointed public official holding a City office who recommends or takes quasi-judicial action as a member of a board or commission. The term does not include a member of the board or commission of any state agency or authority

**Participants** – those members of the general public other than the applicant who attends a public hearing for the purpose of being heard on a particular application.

**Planning Staff** – The office staff, or consultants, in charge of administering the Land Use Development Code as it relates to administrative duties and permitting. Also known as the Community Redevelopment office.

**Relevancy** – in order to be relevant, the evidence submitted must strengthen or weaken the application by supporting or disproving factual assertions contained in the application or must relate directly to the application. The Commission, P&Z or BOA shall determine the relevancy of evidence.

**Witnesses** – City staff members, representatives of the applicant, and participants who testify at the hearing, including consultants and expert witnesses called on behalf of either the City, the applicant or an opposing party.

## Procedures After Completeness Determination Planning & Zoning Board (P&Z) Proceedings

- A. Within thirty (30) days of the Planning Staff's determination that the application is complete, the Staff shall schedule a public hearing on the application before P&Z. A quasi-judicial hearing shall be scheduled when all required reports and procedures have been completed and all applicable fees have been paid.
- B. The Planning Staff shall prepare a written report to P&Z regarding the Staff's analysis of the pending application. The report shall be available to the applicant and the general public no less than ten (10) days prior to P&Z's public hearing on the application.
- C. P&Z shall conduct a quasi-judicial hearing on the application.
- D. At the conclusion of the quasi-judicial hearing, the Chairman with input from the City Staff/Attorney shall verbally recap the board's decision containing conclusions of applicable law, findings of relevant fact consistent with the Land Development Regulation requirements. Within thirty (30) days thereafter, of the P&Z's decision, staff shall reduce the decision to a written order containing conclusions of applicable law, findings of relevant fact and signed by the chairman or vice- chairman.
- E. Notice of the proposed order shall be provided to the applicant and made available through the City's Public Records request process.
- F. Within 30 days of the signed order, the City, the Applicant or an Adversely Affected Person who appeared at the hearing shall be entitled to file with the City Clerk's office a written request for an appeal before the City Commission. The written request for an appeal shall set forth the specific grounds for such request.
- G. If no such request is timely filed, P&Z's proposed order shall become final and the City Commission shall have no jurisdiction in the matter.
- H. If such a request is timely filed, the P&Z's proposed order shall be superseded by the City Commission's final action on the request.

## Board of Adjustment (BOA) Proceedings

- A.-Within thirty (30) days of the Planning Staff's determination that the application is complete, the Staff shall schedule a public hearing on the application before BOA. A quasi-judicial hearing shall be scheduled when all required reports and procedures

have been completed and all applicable fees have been paid.

- B. The Planning Staff shall prepare a written report to BOA regarding the Staff's analysis of the pending application. The report shall be available to the applicant and the general public no less than ten (10) days prior to BOA's public hearing on the application.
- C. BOA shall conduct a quasi-judicial hearing on the application.
- D. At the conclusion of the quasi-judicial hearing, the Chairman with input from the City Staff/Attorney shall verbally recap the board's decision containing conclusions of applicable law, findings of relevant fact consistent with the Land Development Regulation requirements. Within thirty (30) days thereafter, of the BOA's decision, staff shall reduce the decision to a written order containing conclusions of applicable law, findings of relevant fact and signed by the chairman or vice-chairman.
- E. Notice of the proposed order shall be provided to the applicant and made available through the City's Public Records request process.
- F. Within 30 days of the signed order, the City, the applicant or an Adversely Affected Person who appeared at the hearing shall be entitled to file with the secretary of the Board of Adjustment a written request for an appeal before the City Commission. The written request for an appeal shall set forth the specific grounds for such request.
- G. If no such request is timely filed, the Board of Adjustment's proposed order shall become final and the City Commission shall have no jurisdiction in the matter.
- H. If such a request is timely filed, the Board of Adjustment's proposed order shall be superseded by the City Commission's final action on the request.

#### City Commission Proceedings

See Section IIIA.1 (Ordinance 2008-01) for appeal proceedings.

#### COMMUNICATIONS WITH CITY STAFF

Communications between Commission, P&Z or BOA member and City staff are permitted subject to the disclosure requirements under ExParte Communications. Attorneys for the Commission, P&Z and BOA may render legal opinions when requested by members, but shall not advocate one party's position over another, except to the extent necessary to respond fully to a legal question.

#### EX-PARTE COMMUNICATIONS

- A. Written Communications. A Commissioner, P&Z or BOA member may read a written communication from any person. However, a written communication that relates to quasi-judicial action that is pending before the

Commission, P&Z or BOA member shall not be presumed prejudicial to the action and such written communication shall be made part of the record before final action on the matter.

B. Oral Communications. Oral communication is permitted. The substance of any ex-parte communication with a Commissioner, P&Z or BOA member is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group or entity with whom the communication took place is disclosed and made part of the record prior to final action in this matter.

C. Investigations, and Site Visits.. Commission, P&Z or BOA members may conduct investigations and site visits. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, or site visit, is made part of the record before final action on the matter.

#### CITY STAFF FILE

All written communications shall be included in the file maintained by staff and available for public inspection. Any communication received by staff shall be reported as part the oral staff report. The staff report, any petitions or other submissions from the public, and all other documents pertaining to the case shall also be kept in the file and available for public inspections. During its presentation, staff shall offer all such written communications into evidence, subject to any objections interposed by participants.

#### DISCLOSURE

At the public hearing on which a vote is to be taken on a matter, a Commissioner, P&Z or BOA member who has received an ex-parte communication, conducted an investigation, or has physically inspected the property shall:

- A. disclose the subject of the oral communication and the identity of the person, group or entity with whom the communication took place;
- B. make written part of the record, and disclose the existence of investigation and site visits made by the Commissioner, P&Z or BOA member.

#### BASIS OF DECISION

All decisions by the Commission, P&Z or BOA members shall be based on the record of the evidence presented to the Commission at the hearing on the case, which shall include testimony of all witnesses, and other evidence presented. Strict rules of evidence shall not apply, but evidence must be relevant to the case.

#### CONDUCT OF HEARING

Generally

- A. A quorum of the Commission, P&Z or BOA shall be present.
- B. All testimony presented by the applicant, any affected party, any witness for a party, or the staff (other than legal advice given by the City attorney) shall be given under oath which shall be given collectively at the beginning of the hearing.

C. The applicant, any affected party, and the City Staff may cross-examine any person presenting testimony at the hearing. The scope of the cross-examination shall be limited to the testimony of the witness in relation to the application. The cross-examination cannot be designed to merely harass, intimidate or embarrass the witnesses. The chairperson of the Commission, P&Z or BOA will determine the scope of the cross on his or her own initiative, or when the individual being questioned objects to the cross-examination for going beyond the witness testimony. The chairperson may defer to the City Attorney to determine the scope of the cross-examination. The chairperson may direct the party conducting the cross-examination to stop a particular line of questioning that is not relevant and beyond the scope of the testimony of the witness being cross-examined. If the party conducting the cross-examination continuously violates directions from the chairperson to end a line of questioning deemed irrelevant and merely designed to harass intimidate or embarrass the witness, the chairperson may terminate the cross-examination.

D. Time Limits.

Applicant is allowed up to thirty (30) minutes.

Participants

1. Members of the public three (3) minutes each
2. Speakers representing a group of six (6) or more in attendance at the meeting – five (5) minutes each.
3. Expert witnesses – ten (10) minutes
4. At the discretion of the chairperson of the Commission, the time allowed for any testimony may be reduced or extended.

E. An electronic record shall be made of the hearing by the City.

F. Members of the general public may provide comment during the hearing. If a member of the general public desires his or her testimony to be considered as potential competent substantial evidence, such person shall be placed under oath and subject to cross-examination.

G. The Commission, P&Z or BOA members may question the applicant, other parties, witnesses, and the City Staff at any time during the hearing.

H. The Commission, P&Z or BOA members may approve, approve with conditions, or deny the matters under consideration. The decision shall be based upon competent substantial evidence presented during the hearing.

I. The Commission, P&Z or BOA members shall enter a written order which contains findings of fact and conclusions of law in support of its decision.

J. The Commission's, P&Z's or BOA's written order shall be transmitted and filed with the City Clerk as part of the official records of the City.

Specifically

All quasi-judicial hearings shall be conducted in the following order:

A. The chairperson of the Commission, P&Z or BOA shall call the hearing to order at the time specified on the public notice.

B. The City Staff shall confirm that the notice requirements were met.

C. Each member of the Commission, P&Z or BOA shall disclose the existence and general substance of any conflicts and ex parte contacts.

D. The City Staff shall present the compliance report regarding the pending application.

E. The applicant shall present evidence supporting the application and shall bear the burden of demonstrating that the application should be granted.

F. An affected party is entitled to present evidence opposing the application.

- G.Public comment.
- H.Rebuttal by the Staff any affected party, and the applicant.
- I.Conclusion of the evidentiary portion of the hearing.
- J.Closing arguments by the Staff any affected party, and the applicant.
- K.Deliberation by the Commission.

**SECTION II.** All Ordinances or parts of ordinances in conflict herewith, to the extent of such conflict, are hereby repealed.

**SECTION III:** This Ordinance shall become effective upon affirmative vote of the majority of the City Commission and when signed by the mayor and attested by the City Administrator.

This Ordinance was first read in open session on the .... Day of ..... This Ordinance was read for the second time and finally adopted in open session on the ..... day of .... The final adoption motion was made by Commissioner .... And seconded by Commissioner .....

Voting Aye  
Voting NayL

FOR THE CITY COMMISSION OF THE  
CITY OF APALACHICOLA, FLORIDA

ATTEST:

Lee Mathes, City Administrator