

LDC Revisions Subcommittee Draft

Chapter 1 GENERAL PROVISIONS

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Sec. 1-1. Title - how to refer to this code. Part III of the Escambia County Code of Ordinances is entitled the Escambia County Land Development Code and may also be referred to or cited as the Land Development Code or the LDC. [1.02.00]

Sec. 1-2. Authority - the right of the LDC to regulate. The LDC is authorized and required by the State of Florida in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, specifically Florida Statutes §163.3202. The Escambia County Comprehensive Plan further requires that those specific and detailed provisions necessary and desirable to implement its goals, objectives and policies be adopted and maintained within a land development code. [1.01.00] [FLU 1.1.2]

Sec. 1-3. Purpose - the function of the LDC. The purpose of the LDC is to put the land use goals, objectives and policies of the Escambia County Comprehensive Plan into orderly practice through specific regulations that govern the use and development of the lands of the county. These regulations are consistent with the Comprehensive Plan and necessary to protect the public health, safety and general welfare, private property rights, the natural environment, and the economic vitality of the county. [1.01.00, 1.04.00] More specifically, it is the purpose of the LDC within its chapters to:

- (1) Establish an objective, practical, organized and effective system of administration and appeal for county land use and development regulations that clearly describes review and approval requirements for the public and optimizes the resources of government.

- 1 (2) Establish clear county zoning and other land use regulations that provide for the
2 orderly, efficient, and sustainable use of land and structures for agricultural,
3 residential, mixed-use, commercial, industrial, recreational, public and other
4 needs of the present while ensuring no less for the future.
- 5 (3) Establish clear county development standards for the allowed uses of land and
6 structures that ensure the protection of life and property, the provision of
7 adequate public facilities and services, the conservation of resources, the
8 protection of public and private investments, and the preservation of social and
9 aesthetic values.
- 10 (4) Establish clear county regulations that balance the interests of property owners in
11 continuing lawfully established uses, structures, site conditions and lots in
12 productive use with the public benefits of providing a gradual remedy for existing
13 substandard conditions through increased conformance with established
14 standards and prohibited expansion of nonconformance. [FLU 1.4.1] [9.00.01 &
15 .02]

16
17 **Sec. 1-4. Applicability - how LDC provisions apply.**

- 18 (a) **Generally.** The provisions of the LDC apply within all unincorporated areas of
19 Escambia County to all land uses and development activity, including the
20 construction, placement, erection, alteration, use or occupancy of any structure, and
21 the division of any land. Accordingly, no principal or accessory structure, or use of
22 any land or structure, shall be established, located, erected, converted,
23 reconstructed, structurally altered, extended, or enlarged, and the county shall issue
24 no approval to develop or permit to construct, unless such uses and activities
25 comply with all provisions of the LDC. [1.03.00, 7.00.01, 10.01.05, 13.00.03,
26 13.20.06.E]
- 27 (b) **Vested rights.** Vested rights to land uses or development activities shall not be
28 revoked by amendments to the LDC without due process of law. Property rights are
29 statutorily vested for any use or activity lawfully approved by the county according to
30 the Comprehensive Plan and LDC provisions in effect at the time of approval. As
31 further provided in Chapter 3 of the LDC under principles of fairness and due
32 process, equitable vested rights shall be established for property owners who
33 demonstrate they have otherwise acquired such rights through official county action.
34 Because rights established by either form of vesting are not affected by later
35 adoption or amendment of land development regulations, a vested use or activity
36 may be completed or continued even when inconsistent with newer LDC provisions.
37 However, the use or activity remains subject to all approval terms, conditions and
38 restrictions, and all applicable permits. Additionally, when an approval expires or
39 becomes invalid, the formerly approved land use or development activity may only
40 take place through reapplication and approval in conformance with the requirements
41 of the LDC in effect at the time of reapplication. [1.09.00, 9.01.00.C]
- 42 (c) **Nonconformance.** Lawfully established and maintained uses, structures, site
43 conditions, and lots made nonconforming by later adoption or amendment of any
44 land development regulation may continue subject to the nonconformance
45 provisions in Chapter 4 of the LDC. However, nothing in the LDC shall be
46 interpreted as authorizing or approving the continuation or expansion of any uses,

1 structures, conditions, or lots not lawfully established according to regulations in
2 effect at the time of establishment. [9.01.00.A & B]

3
4 **Sec. 1-5. Effective date - when LDC provisions apply.** All LDC provisions, including
5 any amendments to them, apply according to the effective date of the ordinance
6 adopting them. Any application for county approval required by the LDC and accepted
7 by the county on or after the effective date of a new or amended LDC provision must
8 comply with that provision unless the terms of the provision clearly indicate otherwise.
9 [1.07.00, 1.09.00, 7.00.01]

10
11 **Sec. 1-6. Exceptions, alternatives and variances - adjustments in LDC provisions.**
12 The requirements of the LDC apply without any exceptions, exemptions, alternatives,
13 waivers, variances or other adjustments unless such adjustments are specifically
14 established within the code requirements. Where appropriate, the LDC may establish
15 alternative requirements to provide flexibility and encourage minimum standards to be
16 exceeded. Other LDC provisions may allow criterion-based administrative approval of
17 site-specific variances to provide relief in unusual or unanticipated circumstances.
18 However, where no modifications to code requirements are established in the LDC, only
19 the lawful amendment of those requirements can permit a land use, development
20 activity or other action that is otherwise prohibited by the LDC. [new]

21
22 **Sec. 1-7. Rules of interpretation - the meaning of LDC provisions.** [new]

23 **(a) Generally.** The LDC shall be interpreted and administered broadly by the approving
24 authorities described in Chapter 2 to achieve its declared purposes. In the
25 interpretation and administration of any LDC provisions, they shall be understood to
26 be the minimum requirements adopted by the BCC for the promotion of the public
27 health, safety and general welfare. It is presumed that the intent of the BCC in a
28 particular provision of the code is expressed by the wording of that provision.
29 Further, the BCC is presumed to act intentionally and purposely when it includes
30 language in one section of the code but omits it in another. The rules of
31 interpretation prescribed in this section shall be observed in the implementation of all
32 LDC provisions. [1.04.00, 2.07.00]

33 **(b) Confirmation of meaning.** The meaning of a regulation in the LDC must first be
34 evaluated according to its plain language. If the meaning is clear, then the
35 remaining administrative function is to enforce it according to its stated terms. If the
36 regulation is unclear, its meaning shall be determined in consideration of other LDC
37 regulations on the same subject, giving priority to those closest in context. However,
38 individual provisions must be interpreted so as to be internally consistent and not
39 disconnected from the rest of the LDC. Every part of a regulation is presumed to
40 have some effect, and must not be treated as having no effect unless absolutely
41 necessary.

42 **(c) Delegation of authority.** When a provision of the LDC requires the County
43 Administrator, County Engineer, Planning Official, Building Official, or other county
44 officer or employee to perform some act or duty, the provision also authorizes that
45 individual to delegate the performance of the required act or duty to another qualified

1 county employee under his authority, unless the terms of the provision clearly
2 indicate otherwise.

3 **(d) Particular and general.** A particular intent expressed in the LDC has authority over
4 a general one, meaning that when there is a more specific requirement, it must be
5 followed in place of a more general one, regardless of whether the general
6 requirement is more lenient or in conflict with the specific one.

7 **(e) Words.**

8 **(1) Generally.** Words not having acquired a meaning by other applicable regulatory
9 definition or judicial construction, and not otherwise defined in the LDC, shall be
10 understood according to their usual and customary meanings.

11 **(2) Tense and form.** Words used in one tense or form include other tenses or
12 derivative forms, unless the context clearly indicates otherwise.

13 **(3) Singular and plural.** Words used in the singular include the plural and words in
14 the plural include the singular, unless the context clearly indicates otherwise.

15 **(4) Gender.** Words used in the masculine, feminine, or neuter gender include the
16 other genders.

17 **(5) Mandatory, permissive, and advisory.** The words "shall," "will" and "must" are
18 mandatory in nature and always require compliance where used. The word
19 "may" is permissive, authorizing but not requiring action. The word "should" is
20 advisory only, identifying recommendations provided by the county in the
21 implementation of regulations.

22 **(6) Conjunctions.** Unless the context clearly indicates otherwise, where a
23 regulation connects items, conditions, provisions or events, the conjunctions shall
24 be interpreted as follows:

25 a. "and" indicates that all the connected terms, conditions, provisions, or events
26 apply.

27 b. "or" indicates that the connected items, conditions, provisions, or events may
28 apply singly or in any combination.

29 c. "either . . . or" indicates that the connected items, conditions, provisions, or
30 events apply singly but not in combination.

31 **(7) Written or in writing.** The words "written" or "in writing" include any
32 representation of words, letters, diagrams or figures, whether by handwriting,
33 typewriting, printing or other forms of recording.

34 **(8) Used for.** The words "used for" include intended, designed, arranged, occupied
35 and maintained for, unless the context clearly indicates otherwise.

36 **(9) Including or includes.** The words "including" or "includes" do not limit a
37 provision to the specific example or series of examples it contains, but extend its
38 meaning to all other items, instances, or circumstances of like kind or character
39 to the example.

40 **(f) Computation of time.** In computing any period of time allowed or prescribed by the
41 LDC, the day from which the period begins to run is not included. The day after the
42 act or event that begins the period is day one. The last day of the computed period
43 is included, unless it is a Saturday, Sunday or legal holiday. In that case the period
44 will run until the end of the next day that is not a Saturday, Sunday or legal holiday.
45 Unless otherwise specifically provided, a "day" means a calendar day, a "week"

1 means seven days, a “month” means a calendar month, and a “year” means a
2 calendar year.

3 **(g) Controlling text.** If there is any inconsistency between the text of LDC regulations
4 and any picture, illustration, drawing, map, table, or caption within the LDC, the text
5 of the regulations governs unless otherwise specifically provided.

6 **(h) Headings and titles.** Headings and titles in boldface or italic type within the
7 chapters of the LDC are only included to indicate content and organization for the
8 convenience of the reader. Such headings are only catchwords and do not by their
9 presence or absence govern, limit, modify, or in any manner affect the scope,
10 meaning, or intent of any provision of the LDC. Accordingly, no provision of the
11 LDC will be held invalid by reason of deficiency in any heading or title of any
12 chapter, article, section or other part.

13
14 **Sec. 1-8. Appeals - review of LDC-based determinations.** Those persons whose
15 substantial interests have been adversely affected by the interpretation or administration
16 of a county official or body exercising authority under the LDC have the right to a review
17 of the county’s determination. Review of any such action may be requested following
18 the appealable action according to the administrative appeal processes in Chapter 3 of
19 the LDC. Review of citations by code enforcement officers will be as prescribed in Part
20 I of the Code of Ordinances. Any challenge to the consistency of either a development
21 approval or a provision of the LDC with the Comprehensive Plan shall be made in the
22 manner prescribed by Florida Statutes. [2.04.00, 2.05.07.A]

23
24 **Sec. 1-9. Code of Ordinances - relation of the LDC to other ordinances.** The LDC
25 exists as Part III of the Code of Ordinances to implement the land use requirements of
26 Part II, the Comprehensive Plan. In this implementation the LDC establishes certain
27 land use regulations for buildings and prescribes development standards for sites they
28 occupy, but the construction of buildings and other structures is regulated through the
29 Florida Building Code and other provisions prescribed within Part I of the Code of
30 Ordinances. Except in their administration and enforcement, or where specific
31 references are made to other county ordinances, the Comprehensive Plan and LDC are
32 largely independent of Part I. [new]

33
34 **Sec. 1-10. Other regulations - the limit of LDC references.** The use and
35 development of land within Escambia County is subject to additional regulations that are
36 not part of the LDC, but may be referenced in it. These additional requirements include
37 other local ordinances and state and federal regulations. References in the LDC to
38 other requirements are intended only for the convenience of the reader. The lack of a
39 code reference does not exempt any use or activity from compliance with any applicable
40 requirement of law. Where provided in the LDC, references are to the most recently
41 enacted or amended version of a regulation, unless clearly indicated otherwise.

42 [2.02.03]

43
44 **Sec. 1-11. Conflicting provisions - differences with and within the LDC.**

45 **(a) Generally.** If any provisions of the LDC are inconsistent with other local, state or
46 federal requirements, including other LDC provisions, the more restrictive

1 requirement or that imposing the higher standard governs, unless otherwise
2 specifically provided. However, nothing in the LDC shall allow, encourage or require
3 any change to its provisions except through the formal amendment process
4 established within the LDC and Florida Statutes. [2.07.00, 7.15.16]

5 **(b) SRIA leases.** Where the provisions of a lease agreement with the Santa Rosa
6 Island Authority (SRIA) conflict with LDC provisions, the lease will govern unless
7 otherwise mutually agreed by the lessee and the SRIA that the LDC provisions shall
8 apply. [13.00.03, 13.01.01]

9 **(c) Private agreements.** Except for private agreements made as a condition of
10 development approval under the LDC or a predecessor ordinance, the interpretation
11 and enforcement of the LDC is not affected by any recorded easements, covenants,
12 lease agreements, deed restrictions or other agreements between private parties. It
13 is not the intent of the LDC to repeal, abrogate, or interfere with such private
14 restrictions or agreements, but where the LDC imposes greater restrictions, its
15 provisions govern. If the provisions of a private agreement impose a greater
16 restriction than the LDC, the provisions of the private agreement govern. However,
17 the county is not responsible for monitoring or enforcing private agreements.
18 [1.05.00, 2.07.00, 13.00.03]

19
20 **Sec. 1-12. Severability - when LDC provisions may be separated.** If any section,
21 sentence, clause or other portion of the LDC is for any reason held or declared by a
22 court of competent jurisdiction to be inoperative, invalid, or unconstitutional, that
23 decision does not affect other portions of the LDC that can be given effect without the
24 unacceptable portion. Similarly, if any provision of the LDC is held to be inapplicable to
25 a particular person, property, or circumstance, that holding does not affect its
26 applicability to any other person, property, or circumstance. [1.06.00]