

# LAND DEVELOPMENT CODE

## CHAPTER 1

### STATUS OF LAND DEVELOPMENT CODE AND PROCEDURES FOR AMENDMENTS

#### **Section 1.1 Title**

This Code shall be known and may be cited as the "Madison County Land Development Code." Except where otherwise indicated, references herein to "the Code" or "this Code" shall be taken as references to the entire Madison County Land Development Code or to the specific provision which applies to the situation in question.

#### **Section 1.2 Authority**

This Code is granted by the Florida Constitution and Laws. The Madison County Commissioners hereby exercise the power to classify land within the jurisdiction of Madison County into land use districts and to review and approve or disapprove plats and plans for the subdivision and development of land.

#### **Section 1.3 Purpose**

The purpose of this Code is to provide for orderly growth; to encourage the most appropriate use of land; to discourage incompatible uses of adjacent properties; to preserve and protect the environment and natural resources and beauty of Madison County; to protect and conserve the value of property; to prevent the overcrowding of land; to promote, protect and improve the health, safety, comfort, good order, appearance, convenience, and general welfare of the public and to help accomplish the goals and objectives of the Madison County Comprehensive Plan. This Code is deemed by the County Commissioners of Madison County, Florida to bring Madison County into compliance with Sec. 163.3161 – 163.3125, Florida Statutes.

#### **Section 1.4 Interpretation and Intent**

- (1) *Generally.* In the interpretation of these regulations, the following rules shall be observed unless such construction would be inconsistent with the Comprehensive Plan or with the manifest intent of the County Commissioners, or where the language of such section contains any express provisions excluding such construction.
  - (a) All provisions, terms, phrases and expressions contained in these regulations shall be liberally construed to follow the goals, objectives, and policies of the Comprehensive Plan in order for the true intent and meaning of the County Commissioners to be fully carried out. No provision shall be interpreted so as to limit or repeal any other powers granted to the County under state statutes.
  - (b) In the interpretation and application of these regulations, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience, and general welfare. Where any provision of these regulations imposes a greater restriction upon the subject matter than a general provision imposed by another provision of these regulations, the most specific provision shall

be deemed to be controlling.

- (2) *Effect of private agreements and other regulations.* This Code shall not interfere with, annul or abrogate any easements, covenants or other agreements between parties which are consistent with this Code.
- (3) *Computation of time.* The time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday or legal holiday recognized officially by Madison County, that day shall be excluded.
- (4) *Delegation of authority.* Whenever a provision requires the head of a department or some other County officer or employee to do some act or perform some duty, it is to be construed to authorize delegation to qualified subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.
- (5) *Gender, number and tense.* Words importing the masculine gender shall be construed to include the feminine and neuter. A word importing the singular number may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number shall be deemed to include any single person or thing. Words used in the past or present tense include the future as well as the past or present.
- (6) *Non-technical and technical words.* Words or phrases shall be construed according to the common and approved usage of the language, except that technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning. Words and phrases which are defined in the Code shall be construed as so defined.

## **Section 1.5 Jurisdiction**

The provisions of this Code shall apply to all land, buildings, structures and uses in the unincorporated areas of Madison County and to any other area authorized by law or interlocal agreement.

Except as specifically provided below, the provisions of this Code shall apply to all development in Madison County, and no development shall be undertaken without prior authorization pursuant to this Code.

### **Section 1.5-1 Exceptions**

- (1) *Previously Issued Development Permits.* The provisions of this Code and any amendments thereto shall not affect the validity of any lawfully issued and effective development permit lawfully issued prior to the effective date of this enactment or for which application has been made prior to such date and for which the permit is issued within 90 days.
- (2) *Previously Approved Development Orders.* Projects with development orders that have not expired at the time this Code or an amendment thereto is adopted, and on which development activity has commenced or does commence and proceeds according to the time limits in the regulations under which the development was originally approved, must meet only the requirements of the regulations in effect when the development plan was approved. If the development plan expires or is otherwise invalidated, any further development on that site shall occur only in conformance with the requirements of this Code or amendment thereto.

## **Section 1.5–2 Severability**

If any section, subsection, paragraph, sentence, clause, or phrase of this code is for any reason held by any court of other forum of competent jurisdiction to be invalid, the validity of the remaining portions of this code shall continue in full force and effect.

## **Section 1.6 Compliance with Provisions Required**

- (1) *Development activity.* No land, building or structure shall be erected, moved, added to, enlarged, altered or maintained after the effective date of this Code except in conformity and compliance with the provisions of this Code.
- (2) *Development and building permits.* No development order or building permit shall be issued, and no site plan or subdivision plan or preliminary or final plat shall be approved, recorded or referenced to convey property after the effective date of this Code except in conformity and compliance with the procedural and substantive provisions of this Code.

## **Section 1.7 Maintenance of Copies**

The original of this Code shall be maintained in the office of the Clerk of Court. Copies of the Code, including all current amendments, shall be maintained at the Madison County Administrator's Office and at the Madison County Library and shall be available for public inspection.

## **Section 1.8 Amendments to the Comprehensive Plan**

### **Section 1.8-1 Standard Amendments to Comprehensive Plan**

- A. The general requirements to initiate an amendment to the Madison County Comprehensive Plan, or one of its elements are as follows:
  1. An amendment may be proposed by the County Commissioners, the Local Planning Agency (LPA) pursuant to Section 163.3184, Florida Statutes, any department or agency of the County, or any person other than those listed above provided, however, that none other than the County Commissioners or the LPA shall propose an amendment for a land use designation change for property which he or she does not own (except as an agent or attorney for the owner).
  2. The procedures provided herein shall apply to all standard Comprehensive Plan amendments except as identified in Section 163.3184(2)(b) and (c).
  4. Procedures for Plan Amendments to the Madison County Comprehensive Plan and supporting documentation along with a filing fee will be established by the Madison County Commissioners in accordance with Section 163.3184 F.S.
  5. In accordance with the above procedures, each Plan Amendment will require the Local Planning Agency to hold public hearing after public notice as defined in Section 163, Florida Statutes, during which staff will present their review and make a preliminary recommendation to the Local Planning Agency. Following the Local Planning Agency public hearing, the proposed amendment shall be forwarded to the County Commissioners with the recommendation of the Local Planning Agency.

6. Within sixty (60) calendar days of the Local Planning Agency public hearing the County Commission may elect to hold the first public hearing on the proposed amendment or amendments as required by Section 163.3184(3). The Board, after this hearing, shall transmit the proposed amendments and supporting data and analysis to the reviewing agencies and to any other local government or governmental agency that has filed a written request..
7. Upon receipt of the review comments to the proposed amendments from the Department of Economic Opportunity, the County Commissioners shall hold a second public hearing pursuant to the notice required by Section 163.3184 at which the Board may adopt the amendment(s), adopt the amendment(s) with changes, or determine that it will not adopt the amendment(s).
8. Adoption of an amendment to the Comprehensive Plan shall be by Ordinance.
9. The adopted amendments(s) to the Comprehensive Plan will be transmitted to the Department of Economic Opportunity within ten (10) working days after adoption.

### **Section 1.8-2 Small-Scale Amendments to Comprehensive Plan**

- A. The requirements to initiate a "small-scale" amendment to the Madison County Comprehensive Plan are different from requirements for a "standard" amendment, and are intended to "streamline" the process, as follows:
  1. The thresholds for small-scale amendments are:
    - (1) Ten (10) acres or less; or
    - (2) The cumulative effect of the above amendments shall not exceed one hundred-twenty (120) acres annually; or
    - (3) The proposed amendment does not include any text change to the plan goals, objectives, and policies; or
    - (4) The proposed property is not located within an area of critical state concern.
    - (5) If the proposed property is within an area designated as rural opportunity as defined under section 288.0656(2)(d), Florida Statutes, the 10 acre limit listed in (1) shall be increased 100 percent to 20 acres.
- B. The requirements for consideration of a small-scale amendment by the County are as follows:
  1. A small-scale amendment may be proposed by the County Commissioners, the Local Planning Agency pursuant to Section 163.3187, Florida Statutes, any department or agency of the County, or any person other than those listed above provided, however, that none other than the County Commissioners or the LPA shall propose an amendment for a land use designation change for property which he or she does not own (except as an agent or attorney for the owner).
  2. The process provided herein shall apply only to small-scale Comprehensive Plan amendments. The procedures for all other Comprehensive Plan amendments are contained in Section 1.8-1 of this Chapter. The Board of County Commissioners may initiate small-scale amendments by either choosing to follow the standard amendment process or the follow the process contained herein.
  3. Small scale amendments adopted pursuant to Section 163.3187, Florida Statutes require

only one public hearing before the Board of County Commissioners, which shall be an adoption hearing as described in section 163.3184, Florida Statutes.

4. Adoption of the amendment to the Comprehensive Plan shall be by ordinance.
5. The adopted amendment to the Comprehensive Plan and a copy of the adoption public hearing notice shall be transmitted to the Department of Economic Opportunity, the regional planning council, and any other person or entity requesting a copy within ten (10) working days after adoption.
6. The small scale amendment shall become effective 31 days after adoption by the County Commission, *unless challenged*. If challenged, it may become effective upon the issuance of a final order finding it in compliance.
7. If an application for a small scale amendment is denied by the County Commission, the Commission shall take no further action on another application for substantially the same small scale use on the same premises until after twelve (12) months from the date of the prior denial.

## **Section 1.9 Procedure for Amendment of Code**

### **Section 1.9–1 Initiation of Amendment**

- A. A request for an amendment to the Land Development Code of Madison County may be initiated at any time by the County Commissioners, by the Local Planning Agency, or by the land owner (including his duly authorized agent) of the land for which the change is requested.

### **Section 1.9–2 Procedure for Amendment**

Any proposed amendment to this Code shall be processed as provided by applicable law.

### **Section 1.9–3 Effective Date of Amendment**

An ordinance enacted by the County Commissioners to amend this Code shall be filed with the Florida Secretary of State and the effective date shall be as provided by law.

### **Section 1.9–4 Update of the Text**

Immediately following the enactment of an ordinance amending the text of this Code, a copy of said ordinance shall be filed in the office of the County Administrator and at the Madison County Library for use in the administration and enforcement of the Land Development Code. Within thirty (30) days following the date said ordinance becomes effective, appropriate changes shall be made to incorporate said ordinance into the text of this Code maintained in the Office of the County Clerk, and shall similarly incorporate said ordinance into all copies of said code utilized for administration and distribution to the public.

## **Section 1.10 Notice**

### **Section 1.10–1 Notice by Mail**

In addition to other notice required by law, whenever any action to grant a variance or special exception, or an amendment to this Land Development Code affecting a specific parcel or parcels

of land shall be considered by the LPA or the County Commissioners, a notice shall be posted on the subject property, at least fifteen (15) days prior to the hearing, in a conspicuous place or places and shall set forth the time, place and purpose of the hearing related to the property being posted. In addition, at least fifteen (15) days prior to the hearing, except in the case of small scale amendments, notice by certified mail shall be sent to the applicant and to each real property owner whose land lies within 500 (five hundred) feet of the perimeter of the subject property and whose address is known by reference to the latest ad valorem tax records. In the case of small scale amendments, the notice to each real property owner shall be in accordance with the requirements of Chapter 125.66, Florida Statutes. The designee of the County Commission is hereby authorized to post any said notice upon property proposed for the future land use map amendment, and it shall be unlawful for any person to remove or tamper with said notice during the time period as may be established for the maintenance of said notice. There shall be no posting requirement or the mailing of notices for an amendment to the land development code text only.

### **Section 1.10–2 Additional Methods of Notification**

In addition to required notices of proposed actions as heretofore set forth, other methods of notification may be utilized by the County Commission at its option. Said methods may include but not be limited to mail notification to owners of property adjacent to property proposed for future land use map amendment and the posting of notice upon property proposed for future land use map changes. The designee of the County Commission or County Administrator is hereby authorized to post any said notice upon property proposed for future land use map change, and it shall be unlawful for any person to remove or tamper with said notice during the time period as may be established for the maintenance of said notice.

### **Section 1.11 Conduct of hearings**

Any interested persons shall have the right to submit oral or written testimony at hearings before the LPA and the County Commissioners. All testimonies and exhibits submitted at the hearing, including the application, shall be incorporated into the application file and shall be considered a part of the record on the application. Evidence which is immaterial, irrelevant, or unduly repetitious may be excluded. The hearings may be adjourned from time to time to dates established by public announcement at said hearings and shall be the earliest practical date for resumption of the hearings.