ORDINANCE 15-30

AN ORDINANCE OF THE CITY OF DUNEDIN AMENDING IN ITS ENTIRETY CHAPTER 104, PROCEDURES, OF THE LAND DEVELOPMENT CODE; PROVIDING FOR THE AMENDMENT OF SECTION 104-10.1(B) TO REORDER THE DEVELOPMENT PROCESS; DELETING FIGURE 104-1.1; PROVIDING FOR THE AMENDMENT OF TABLE 104.1.2 TO MATCH NOTICE REQUIREMENTS OF THE FLORIDA STATUTES, SECTION 104-23.13 TO REVISE THE REZONING APPROVAL CRITERIA, SECTION 104-24 TO REVISE THE REQUIREMENTS FOR PROJECTS REQUIRING CITY COMMISSION DESIGN REVIEW, SECTION 104-24.4 TO REVISE APPLICABILITY, SECTION 104-24.5 TO CREATE A DESIGN REVIEW EXEMPTION FOR ACCESSORY BUILDINGS, SECTION 104-24.6 TO RENAME THE NEIGHBORHOOD PARTICIPATION PLAN AND ELIMINATE ITS REQUIREMENT FOR RESIDENTIAL TO RESIDENTIAL DEVELOPMENT, SECTION 104-24.7.3 TO ADD ENGINEERING REQUIREMENTS FOR DESIGN REVIEW SITE PLANS, SECTION 104-24.7.4 TO ELIMINATE THE RECOMMENDED ARCHITECTURAL GUIDELINES, SECTION 104-24.7.6 TO CLARIFY TRAFFIC IMPACT ANALYSIS REQUIREMENTS, SECTION 104-24.7.8(B) TO PROVIDE FOR THE WAIVER OF THE SECOND PUBLIC HEARING BEFORE THE CITY COMMISSION, SECTION 104-24.7.9 TO AMEND THE DESIGN REVIEW APPROVAL CRITERIA FROM REGULATORY TO PERFORMANCE-BASED STANDARDS, SECTION 104-24.9.1 TO ALLOW FOR A 10% MODIFICATION OF A DESIGN REVIEW PLAN, SECTION 104-25 TO CLARIFY THE REGULATIONS FOR MINOR CHANGE TO AN EXISTING SITE PLAN, SECTION 104-31.7 TO PROVIDE FOR MORE SPECIFIC COMPREHENSIVE PLAN APPROVAL CRITERIA, SECTION 104-49.1 TO ELIMINATE THE CITY COMMISSION CALL-UP PROCEDURE, SECTION 104-45 TO ELIMINATE THE PROVISION FOR PROJECTS REQUIRING STAFF LEVEL DESIGN REVIEW, SECTION 104-51 TO REORDER THE DEVELOPMENT PROCESS, SECTION 104-60 TO REVISE THE PLATTING RESPONSIBILITIES TO THE PLANNING & DEVELOPMENT DEPARTMENT, AND SECTION 104-60.1.1(C) TO PROVIDE FOR A PERFORMANCE SECURITY OPTION WHEN PLATTING PRIOR TO INFRASTRUCTURE COMPLETION; AMENDING APPENDIX A – DEFINITIONS TO PROVIDE FOR THE DEFINITIONS OF "RECEIVING PARCEL", "SENDING PARCEL", "TRANSFEREE" AND "TRANSFEROR"; AND PROVIDING FOR AN EFFECTIVE DATE HEREOF.

WHEREAS, the City Commission of the City of Dunedin adopted Ordinance 10-19 in December of 2010, replacing the City of Dunedin Uniform Development Code in its entirety with the City of Dunedin Land Development Code; and

WHEREAS, upon adoption of the Land Development Code in 2010, the City Commission determined a reevaluation of the Design Review process requiring City Commission review of certain development projects would be necessary after several years of implementation; and

WHEREAS, City staff has conducted exit interviews with developers who have utilized the Design Review process and has recommended revisions to the approval process and criteria, which includes combining the Preliminary Concept Review and Final Design Review applications, utilizing performance-based design standards for the Design Review approval criteria, further specifying rezoning approval criteria, establishing a Design Review exemption for accessory buildings, eliminating the citizen participation requirement when proposed residential development is adjacent to existing residential development, revising the applicability of the Design Review process for certain project types, clarifying Traffic Impact Analysis requirements, allowing the City Commission to waive its second public hearing in the Design Review process, amending criteria for changes to Design Review plans and existing site plans, eliminating the Staff Level Design Review and City Commission call-up procedure, allowing for a Performance Security Option to be utilized by developers for Plat approval prior to Infrastructure approval, and providing for the definitions of "Receiving Parcel", "Sending Parcel", "Transferee", and "Transferor"; and

WHEREAS, suggested revisions to the Land Development Code are significant enough to amend Chapter 104, Procedures, of the Land Development Code in its entirety; and

WHEREAS, the Local Planning Agency of the City of Dunedin has considered the revisions to the text of the Land Development Code and has recommended the changes are necessary; and

WHEREAS, the recommendations of City staff and the Local Planning Agency have been found by the City Commission to be meritorious; now, therefore

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1. That Chapter 104 of the Code of Ordinances of the City of Dunedin is amended in its entirety to read as follows:

See Exhibit "A" attached hereto

Section 2. That Appendix A – Definitions of the Land Development Code is hereby amended to alphabetically incorporate the following terms and definitions:

Receiving Parcel: means a parcel of land that is the subject of a transfer of development rights, where the owner of the parcel is receiving development

rights, directly or by intermediate transfers, from a sending parcel, and on which increased density and/or intensity is allowed by reason of the transfer of development rights;

Sending Parcel: means a parcel of land that is the subject of a transfer of development rights, where the owner of the parcel is conveying development rights of the parcel, and on which those rights so conveyed are extinguished and may not be used by reason of the transfer of development rights; and

Transferee: means the person or legal entity, including a person or legal entity that owns the receiving parcel that purchases the development rights.

Transferor: means the landowner of a sending parcel in a transfer of development rights.

Section 3. That this Ordinance shall become effective upon final passage and adoption, and only if Ordinances 15-31 and 15-32 are adopted as well.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 17th day of December, 2015.

Julie Ward Bujalski
Mayor

ATTEST:

Denise M. Kirkpatrick
City Clerk

READ FIRST TIME AND PASSED: December 03, 2015

READ SECOND TIME AND ADOPTED: December 17, 2015

Chapter 104 - PROCEDURES

104-1 - PURPOSE

The purpose of this chapter is to consolidate the procedures for filing and processing applications for development approval. The format is designed to allow users to quickly and efficiently ascertain the various steps involved in obtaining development approval—from the initiation and filing of an application, the administrative completeness review, the review for compliance with substantive standards, through the public hearings or administrative approval.

- Division 1: General
- Division 2: Development Approvals Requiring Quasi-Judicial Public Hearings
- Division 3: Development Approvals Requiring Legislative Public Hearings
- Division 4: Staff Level Development Approvals
- Division 5: Infrastructure
- Division 6: Platting
- Division 7: Enforcement, Violations, Revocations and Penalties

The provisions of this chapter are designed to implement the comprehensive plan elements (i.e., support services, transportation, conservation and coastal management, housing, future land use, intergovernmental coordination, recreation and open space, capital improvements and public school facilities).

DIVISION 1: - GENERAL

104-10 - PROCEDURAL REQUIREMENTS

104-10.1 - Generally

No development or development activity is permitted unless all applicable development approvals are issued in accordance with this chapter. Development approvals are required for all development, unless otherwise stated, to ensure compliance with the various adopted codes, standards, and laws, and to ensure consistency with the comprehensive plan and policies of the city. This division describes procedural elements common to all applications. The specific procedures followed in reviewing various applications for development approval differ. Reference shall be made to the appropriate section in this chapter, which addresses the procedures and requirement of a particular application. Generally, the procedures for all applications have five common elements:

A) Submittal of a complete application, including required fee payments and appropriate information and studies;

B) Review of the submittal by appropriate staff, agencies, and boards;

Step 1 - Design Review (see § 104-24.6)

Step 2 - Concurrency Review (see Chapter 106 - Concurrency)

Step 3 - Infrastructure/Site Construction Plan Review (see § 104-50)

Step 4 - Infrastructure/Site Construction Permit Issuance

Step 5 - Building Permit(s) for Vertical Construction

Step 6 - Infrastructure/Site Construction Final Inspection and Approval (see § 104-50)

Step 7 - Platting Procedures (see § 104-60)

Step 8 - Recording of Plat (see § 104-60)

C) A decision to approve, approve with conditions, or deny

D) If necessary, amending the decision; and

E) Recording the decision.

104-10.2 - Usual Flow of Most Development Approvals

This section describes the flow of procedural elements for most development approvals. Each section relating to development approval procedure provides the following information unless otherwise noted:

A) Initiation: This describes how the application for the development approval is filed.

B) Pre-application conference: This describes the procedure for discussions with appropriate staff as to requirements for application submittal and compliance with the Land Development Code (LDC).

C) Completeness review: This describes the process for determining whether sufficient information has been submitted in order to process an application, which includes the required fee payment and appropriate information. A determination that an application is complete or incomplete does not constitute a determination as to whether the application complies with the standards for approval of the application. An application must be determined complete before the next action can be taken.

D) Decision: This describes the procedures for review of the submittal by appropriate staff, agencies, and boards, and for reaching a determination as to whether the application for development approval is approved, denied, or approved with conditions.

E) Approval criteria: This lists the criteria for approval of the particular application. These criteria supplement and do not displace any other criteria required by this chapter for approval of the application.

F) Subsequent applications: This provides time periods for processing of renewal applications.

G) Scope of approval: This indicates the rights that an applicant obtains from approval or conditional approval of an application, what actions the development approval authorizes, and the time period for exercising rights under the order or development approval.

H) Recording procedures: This describes how the decision on the application is recorded or filed in the public records.

104-11 - CATEGORIES OF DEVELOPMENT APPROVALS

There are three basic categories of development approvals pursuant to this chapter, defined in *§ 104-11.1 Quasi-judicial Development Approval, § 104-11.2 Legislative Development Approvals,* and *§ 104-11.3 Staff Level Development Approvals.*

104-11.1 - Quasi-judicial Development Approval

A quasi-judicial development approval involves the application of code standards or a discretionary standard required by this chapter to the specific facts of the application. It requires a public hearing.

Procedural due process requirements apply as established in *§ 104-12 Notice Provisions* of this chapter. Examples of a quasi-judicial development approval include conditional use permits, variances, rezoning, projects requiring city commission design review, and plats.

104-11.2 - Legislative Development Approvals

Legislative development approvals involve a change in land-use policy. A public hearing is required, but the procedural requirements of a quasi-judicial hearing do not apply. Legislative development approvals include any change in the comprehensive plan, any change to the text of the LDC, annexation, or a development agreement.

104-11.3 - Staff Level Development Approvals

Staff level development approvals involve the application of the standards of the LDC and the Comprehensive Plan to an application by an administrative official or agency. Examples include building permits, certificates of occupancy, administrative adjustments, and written interpretations.

Table 104-1.1 Development Approval Requirements

Procedure	Review and Decision Making Authority			
	Staff	BAA	LPA	CC
Conditional Use Permits	R (DRC)	<DM> Q		
Variances	R	<DM> Q		
Rezonings	R (DRC)		<R> Q	<DM> Q
Determination of Minor Change	R (DRC)			<DM> Q
Vacation of Easement / ROW	R (DRC)			<DM> L
Comprehensive Plan Text Amendments	R		<R> L	<DM> L
Land Use Map Amendments	R		<R> L	<DM> L
Land Development Code Text Amendments	R		<R> L	<DM> L
Annexation	R		<R> L	<DM> L
Development Agreement	R		<R> L	<DM> L

Grading and Land Disturbance	DM	<A>		
Building Permits	DM	<A>		
Certificates of Occupancy	DM	<A>		
Administrative Adjustments	DM	<A>		
Written Interpretations	DM	<A>		
Projects Requiring Design Review	R	<A>		<DM> Q
Plats	R			<DM> Q, L
BAA	Board of Adjustment & Appeal			
LPA	Local Planning Agency			
CC	City Commission			
DRC	Development Review Committee (DRC)			
R	Review body (responsible for review and recommendation)			
DM	Decision-making body (responsible for final decision to approve or deny)			
A	Authority to decide appeals of decision-making body's action			
<>	Public hearing required			
Q	Quasi-judicial public hearing			
L	Legislative public hearing			

104-12 - NOTICE PROVISIONS

104-12.1 - Generally

The notice requirements for each type of application are prescribed in the individual subsections of this chapter and are also subject to the requirements of state statute. The notice requirements for certain

types of public hearings are established in *Table 104-1.2 Notice Requirements*. However, in the event of any inconsistency between the provisions of this section and any state statute, the state statute governs.

104-12.2 - Contents of Notice

The notice shall state the time, date, place of hearing, and a description of the property subject to the application that includes, at a minimum:

A) The street address, or alternate location information;

B) The current zoning classification, if any;

C) The category of development approval requested;

D) The real property tax assessment roll parcel number;

E) The location where copies of the development requests can be obtained; and

F) If appropriate, additional information as required by Florida Statute.

104-12.3 - Action to Be Consistent with Notice

The reviewing body may take any action on the application that is consistent with the notice given, including approval of the application, conditional approval (if applicable) of the application, or denial of the application.

104-12.4 - Minor Application Amendments Not Requiring Re-notification

The planning director may allow minor amendments to an application without re-submittal of the entire application, if such application has not yet been reviewed by the appropriate decision-making authority. Minor amendments need not be referred back to the local planning agency unless deemed necessary by the planning director. For purposes of this section, "minor amendments" are amendments that do not:

A) Increase the number of dwelling units, floor area, height, impervious surface development, or any additional land-use disturbance;

B) Introduce different land uses other than that which is requested in the application;

C) Request larger land area than indicated in the original application;

D) Request greater variance than that requested in the application;

E) Allow any diminution in buffer or transition areas, reduction in landscaping, reduction of required yards, or any change in the design characteristics or materials used in construction of the structures; or

F) Reduce or eliminate conditions attached to a legislative or quasi-judicial development order.

Table 104.1.2 Notice Requirements

Type of Notice	Adoption of the Comprehensive	Amendment to the Adopted Comprehensive	Amendment to the Text of the	Conditional Use Permit /	Land Use Plan Amend	Rezoning	Annexation	Design Review	Development Agreement**	Vacation***	Determination of Minor Site Plan

	Plan	Plan	Code (City-initiated Ordinance)	Variance	ment						Change ***
Letter of Notice: to abutting property owners, mailed at least 14 days prior to public hearing(s), within specified range of subject property. *	—	—	—	250 ft.	Owner-initiated: 500 ft. City-initiated: 500 ft.**	Owner-initiated: 500 ft. City-initiated: 500 ft.**	Owner-initiated: 500 ft. City-initiated: 500 ft.**	500 ft.	500 ft.	500 ft.	500 ft.
Publication: announcement in an official newspaper of general circulation shall be published on or before specified days prior to public hearing(	7 days, 1st hearing 5 days, 2nd hearing	10 days prior to adoption	7 days, 1st hearing 5 days, 2nd hearing	14 days	14 days (LPA) 7 days, 1st hearing 5 days, 2nd hearing	14 days (LPA) 10 days prior to adoption	14 days (LPA) 7 days, 1st hearing 5 days, 2nd hearing Public Referendum†	—	14 days (LPA) 7 days, 1st hearing 7 days, 2nd hearing	once a week for two weeks prior to hearing	—

s).											
Posted Notice: an informational sign shall be posted on the subject property at least 14 days prior to public hearing(s) and reference the subject petition; signage should be maintained and shall not be removed until after public hearing(s).	—	—	—	✓	✓	✓	✓	✓	✓	✓	✓

*Notice shall be sent to neighboring property owners, as listed in the current year's ad valorem tax role and shall contain the time, date, location and substance of the public hearing(s).

**The notice(s) shall specify the location of the land subject to the development agreement, the development uses proposed on the property, the proposed population densities, proposed building intensities and building heights and shall specify where a copy of the proposed agreement can be obtained.

***Notification of requested vacation must be sent to specified utility companies, and replies stating no objection must be provided prior to acceptance of application.

∞For such City-initiated development orders, additional notice stating the substance of the proposed ordinance must be given to the affected property owner at least 30 days prior to the date of the public hearing(s).

†For City-initiated annexations: After adoption of the annexation ordinance, a notice of public referendum must be published in an official newspaper of general circulation once a week for two consecutive weeks, and include the date of the proceeding, adopted ordinance number, time and place of the referendum and description of the area proposed for annexation.

✓ = the type of notice prescribed in the first column is required for that category of development order. A "—" indicates that the notice is not required.

DIVISION 2: - DEVELOPMENT APPROVALS REQUIRING QUASI-JUDICIAL PUBLIC HEARINGS

104-20 - QUASI-JUDICIAL PUBLIC HEARINGS

104-20.1 - Generally

This section applies to any application for a conditional use permit, variance, rezoning, design review, plat or any other action pursuant to this chapter that is considered quasi-judicial under state law. In making quasi-judicial decisions, decision-makers must ascertain the existence of facts through common knowledge or competent testimony, hold hearings, weigh evidence, consider the creditability of witnesses and draw conclusions from them as a basis for their official action, and exercise discretion of a judicial nature. In the land-use context, these quasi-judicial decisions involve the application of land-use policies to individual properties, as opposed to legislative decisions which cause the creation of policy. Quasi-judicial decisions involve two key elements:

A) The finding of facts through competent, substantial evidence, credibility of witnesses, and consideration of common knowledge regarding the specific proposal; and

B) The exercise of judgment in applying the standards of the ordinance.

Due process requirements for quasi-judicial decisions shall be consistent with state law.

104.20.2 - Applicability

This section applies to any development approval involving a quasi-judicial public hearing.

104-20.3 - Conduct of Hearing

The conduct of a quasi-judicial public hearing regarding any development approval shall be in accordance with the rules, as adopted by resolution of the city commission and in accordance with state law. The board or agency conducting the hearing may establish a time limit for testimony and may limit testimony where it is repetitive.

104-20.4 - Record of Proceedings

The agency conducting the hearing shall record the minutes of the proceedings by any appropriate means as prescribed by rule and consistent with the law.

104-21 - CONDITIONAL USE PERMITS

104-21.1 - Purpose

This section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, may be permitted upon approval by the board of adjustment and appeal in certain zoning districts under appropriate standards and factors set forth in the LDC. Following a determination of approval criteria and conditions by the board of adjustment and appeal, such use may be approved as a conditional use permit. Prior to granting a conditional use permit, the board must be assured of the following:

A) That the use can be appropriately accommodated on the specific property;

B) That the use conforms to the comprehensive plan;

C) That any buildings involved can be constructed and operated in a manner that is compatible with the surrounding land uses and overall character of the community;

D) That the public interest, health, safety, and general welfare will be observed; and

E) That all specific standards as found in *§104-21.9 Approval Criteria* are met in their entirety.

No inherent right exists to receive a conditional use permit. Such authorization must be approved under a specific set of circumstances and conditions. Each application and situation is unique. Every conditional use permit shall, at a minimum, be required to comply with every requirement contained in each chapter of the LDC. Mere compliance with the generally applicable requirements, however, may not be sufficient, and additional measures and conditions may be necessary to mitigate the impact of the proposed development and to ensure compatibility with the adjacent properties/neighborhood.

104-21.2 - Applicability

The provisions of this section apply to any application for approval of a conditional use permit. Conditional use permits are those uses that are generally compatible with the land uses permitted by right in a zoning district but that require individual review of their location, design, and configuration, and the imposition of conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are enumerated as conditional uses in *Chapter 103 - Zoning* shall be authorized by the board of adjustment and appeal.

104-21.3 - Initiation

An owner of real property, or authorized representative, may apply for a conditional use permit for that property by filing an application with the zoning administrator. Current application materials shall be made available utilizing the Development Review Handbook, as provided by the department of planning and development.

104-21.4 - Pre-application Conference

Before any application is filed with the zoning administrator, the applicant shall attend a pre-application meeting with the development review committee (DRC). The purpose of the pre-application meeting is to discuss, in general, the procedures and substantive requirements for the application.

104-21.5 - Completeness Review

No application is complete unless all of the information required by the application is included and all filing fees have been paid. An application is deemed incomplete until all required information is received, including any additional information required by staff for review. Such applications shall be filed in advance of any public hearing, neighborhood meeting or public meeting required pursuant to the LDC or state statute.

104-21.6 - Decision

The decision-making authority for a conditional use permit shall be the board of adjustment and appeal. Upon proper notice being provided to the public as outlined in *§ 104-12 Notice Provisions*, a public hearing will be held in accordance with the LDC.

104-21.7 - Type of Hearing

The public hearing before the board of adjustment and appeal shall be conducted as a quasi-judicial hearing.

104-21.8 - Conditions

In approving any conditional use permit, the board of adjustment and appeal may impose such reasonable standards, conditions, or requirements, in addition to or that supersede any standard specified in the LDC, as it may deem necessary to protect the public interest and welfare. Such additional standards must have a rational nexus to the request and may include, but need not be limited to:

A) Availability of adequate public facilities or services (see *Chapter 106 - Concurrency*);

B) Dedication of land to the public;

C) Reservation of land;

D) Creation of restrictive covenants or easements;

E) Additional setbacks;

F) Additional yard requirements;

G) Increased screening or landscaping requirements;

H) Development phasing;

I) Standards pertaining to traffic circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, and similar protective measures;

J) Provision of sustainable features, solar or other renewable energy source, rain water capture, storage and treatment or other sustainability standards as found within *Division 5 of Chapter 105* ;

K) A performance or completion guarantee—acceptable in form, content, and amount, posted by the applicant to ensure continued compliance with all conditions and requirements as specified in the motion for approval; or

L) Infrastructure approval, if approval was not granted prior to filing of the application for a conditional use permit.

104-21.9 - Approval Criteria

A conditional use is permitted if it can meet each of the eleven approval criteria listed below. Some criteria may require full infrastructure review by the engineering division. It will be the applicant's choice to either pursue infrastructure approval prior to submitting the conditional use permit application, or delay infrastructure approval until after the hearing and risk an approval with conditions or a denial from the board of adjustment and appeal. Regardless of the action of the board, a conditional use permit is not final and in effect until infrastructure approval is obtained from the engineering division (if applicable). Conditional use permit approval criteria are as follows:

A) The requested use is compatible with the existing natural environment of the site, with properties in the neighborhood, and projected future development of the area.

B) There is adequate provision for water supply and for sanitary sewers and sewerage treatment.

C) There is adequate provision for public facilities, such as schools, parks and utilities within the service areas involved, and the proposed use can be accommodated by existing and/or proposed facilities.

D) There is adequate provision for traffic circulation, both vehicular and pedestrian, both internal to the use and in the area which will serve the use, and not be detrimental to the traffic circulation of the area.

E) There are adequate provisions for drainage systems to service the use, with particular attention to the necessity for on-site retention systems to alleviate drainage and pollution problems.

F) There are adequate setbacks, buffering, or other appropriate control measures to mitigate adverse effects of noise, light, dust, fumes, and other nuisances.

G) The land area for the proposed use is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof.

H) The use is compatible with the desired growth and land use patterns reflected in the city land use plan or other planning documents.

I) The proposed use will comply with all appropriate regulations for the zoning district/land use category in which it is located and the policies of the comprehensive plan that apply to that district/category.

J) The proposed use will not adversely affect the health, safety, and welfare of the public in the area, and will not be detrimental to the use or development of adjacent properties or of the general neighborhood.

K) The proposed use will comply with other policies and special standards which are designated elsewhere in the city comprehensive plan and this chapter, which standards and policies will be supplemental to those set forth in this section.

104-21.10 - Subsequent Applications

An application for a conditional use permit may be withdrawn at any time; a signed letter or statement by the applicant shall be required. If the application has been advertised, as required by *§ 104-12 Notice Provisions* and state law, an application requesting substantially the same use on all or part of the same described land shall not be reconsidered within one year of withdrawal. No application for a conditional use permit for any lot or parcel that requests substantially the same use and same conditions shall be considered within one year of a final decision denying the application.

104-21.11 - Amendments

Any proposed amendment to a conditional use permit shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original development approval.

104-21.12 - Scope of Approval

Once a conditional use permit is granted, such use may not be enlarged, extended, increased in intensity, or relocated unless the board of adjustment and appeal, in approving the initial development approval, has specifically established specific rights for consideration of future expansion or enlargement. The provisions of *Chapter 108 - Nonconforming Uses/ Vested Rights*, of the LDC, relative to expansion of nonconforming uses, do not supersede this requirement unless the development approval which was initially granted is no longer a use permitted as a right or as a conditional use in the zoning district in which it is located.

104-21.13 - Recording Procedures

Approved conditional use permits shall be maintained in the files of the office of the city clerk. The applicant shall maintain a signed copy of the development approval.

104-22 - VARIANCES

104-22.1 - Purpose

A variance is an exception granted by the board of adjustment and appeal from the requirements of this LDC. The legislative purpose of a variance is to create a procedure to provide relief from the literal terms of this LDC in certain limited circumstances where literal enforcement of the requirements of this LDC would have the unintended effect of denying the applicant reasonable use of the property or the structures on the parcel. Variances cannot be used to either establish or enlarge a use which is not otherwise permitted in the zoning district.

104-'22.2 - Applicability

The board of adjustment and appeal may authorize a variance from the provisions of this LDC that comply with the requirements of this section. No nonconforming use of neighboring lands, buildings, or other structures, legal or illegal, in the same district, and no permitted use of lands, buildings, or other structures in adjacent districts, shall be considered as grounds for issuance of a variance permitting similar uses.

104-22.3 - Initiation

A variance application shall be filed with the zoning administrator. The application shall state fully the special conditions and circumstances applying to the building or other structure or land for which such variance is sought.

104-22.4 - Pre-application Conference

Before any application is filed, the applicant shall attend a pre-application meeting with the zoning administrator, or designee. The purpose of the pre-application meeting is to discuss, in general, the procedures and substantive requirements for the variance application.

104-22.5 - Completeness Review

No application is complete unless all of the information required by the application is included and all filing fees have been paid. An application is deemed incomplete until all required information is received, including any additional information required by staff for review. Current application materials shall be made available in the planning & development department. Such applications shall be filed in advance of any public hearing, neighborhood meeting or public meeting required pursuant to the LDC or state statute.

104-22.6 - Decision

The board of adjustment and appeal shall hold a quasi-judicial public hearing. Notice shall be provided as set forth *§ 104-12 Notice Provisions* and as required by state law. The zoning administrator

shall submit a report to the board of adjustment and appeal based on the criteria required by this section. The board of adjustment and appeal shall render a decision to deny, approve, or approve with conditions the variance after considering the evidence presented at this hearing.

104-22.7 - Approval Criteria

The board of adjustment and appeal shall not approve a variance unless it finds that special circumstances or conditions exist that are unique to the land, buildings, or other structures for which the variance is sought and do not apply generally to lands, buildings, or other structures in the same district. Special circumstances or conditions to be considered for variances shall include, but not be limited to, the circumstances described in *§ 104-22.7.1* through *§ 104-22.7.7* of the LDC.

104-22.7.1 - Uniqueness

The need for the requested variance arises out of the physical surroundings, shape, topographical conditions, or other physical or environmental conditions that are unique to the specific property involved, and which do not apply generally to property located in the same zoning district.

104-22.7.2 - Tree Preservation

Preservation of a protected tree(s) or native tree(s), but not an invasive tree(s), as defined in *§ 105-42 Landscaping* and *§ 105-43 Trees* of the LDC, may be considered as a relevant environmental condition under this subsection.

104-22.7.3 - Historic Property

A property which meets all of the criteria in order to be listed in the National Register of Historic Places, but is not necessarily listed on the register, may be considered unique for the purposes of granting a variance.

104-22.7.4 - Self-Imposed Circumstances

Conditions or special circumstances peculiar to the property must not have been self-created or have resulted from an action by the applicant, or with prior knowledge or approval of the applicant. Specifically, no variance may be granted arising from the illegal construction of a structure or an illegal use of the premises which would have otherwise required a building permit or other specific approval to be issued, and which construction or which use was commenced unlawfully. Under such conditions, the property owner shall have no legal right to apply for a variance and the board will have no legal right to grant such a variance.

104-22.7.5 - Minimum Variance

The requested variance is the minimum variance that will make possible the reasonable use of the property.

104-22.7.6 - Special Privilege

Granting the variance will not confer any special privilege that is not allowed for other lands, buildings or structures in the same zoning district; no variance will be granted that extends to the applicant a use of property that is not commonly enjoyed by other persons in similar circumstances.

104-22.7.7 - Surrounding Property

Granting the variance will not substantially interfere with, or injure the rights of others whose property would be affected by approval of the variance, alter the essential character of the neighborhood, or create a nuisance.

104-22.8 - Subsequent Applications

An application for a variance may be withdrawn at any time; a signed letter or statement by the applicant shall be required. If the application has been advertised, as required by *§ 104-12 Notice Provisions* and state law, an application requesting substantially the same variance on all or part of the same described land shall not be reconsidered within one year of withdrawal. No application for a variance for any lot or parcel that requests the same variance and same conditions shall be considered within one year of a final decision denying the application.

104-22.9 - Amendments

Any proposed amendment to a variance shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original development approval.

104-22.10 - Scope of Approval

Once a variance is granted, it may not be enlarged, extended, increased in intensity, or relocated unless the board of adjustment and appeal, in approving the initial development approval, has specifically established alternative procedures for consideration of future expansion or enlargement.

104-22.11 - Recording Procedures

Approved variances shall be maintained in the files of the office of the city clerk. The applicant shall maintain a signed copy of the development approval.

104-23 - REZONINGS

104-23.1 - Purpose

This section provides uniform procedures for rezoning requests to the city commission whenever the public necessity, convenience, general welfare, or good planning practice shall be considered. A rezoning of a property is proposed when the current zoning does not permit a desired use at a certain location. Requests for rezoning shall be discussed in terms of their effect on the purpose and intent of the

comprehensive plan and the LDC, as well as their effect on the general health, safety, and welfare of the city. A rezoning hearing may be held in conjunction with other development approvals.

104-23.2 - Applicability

The provisions of this section apply to any application to reclassify a tract, parcel, or land area from one zoning district to another.

104-23.3 - Initiation

All applications for changes in the zoning district classification of property (referred to as a "rezoning") shall be filed with the zoning administrator. A proposed rezoning may be initiated by:

A) The city; or

B) An application properly signed and filed by the owner or, with the owner's specific written consent, a contract purchaser or owner's agent.

104-23.4 - Pre-Application Conference

Before any rezoning application is filed with the zoning administrator, the applicant shall attend a pre-application meeting with the development review committee. The purpose of the pre-application meeting is to discuss, in general, the procedures and substantive requirements for the rezoning application.

104-23.5 - Completeness Review

No application is complete unless all of the information required by the application is included and all filing fees have been paid. An application is deemed incomplete until all required information is received, including any additional information required by staff for review. Current application materials shall be made available in the planning & development department. Such applications shall be filed in advance of any public hearing, neighborhood meeting or public meeting required pursuant to the LDC or state statute.

104-23.6 - Review and Decision

Upon certification by the zoning administrator that the application is complete and required fees have been paid, the application shall be deemed complete and referred to the local planning agency (LPA) for its review and recommendation before being read and subsequently adopted or denied by the city commission.

104-23.10 - Type of Hearing

The public hearings before the local planning agency and city commission shall be conducted as quasi-judicial public hearings. The rezoning of a property shall be enacted by ordinance, and shall follow the procedures for adoption required by 166.041 F.S.

104-23.11 - Local Planning Agency

The local planning agency shall hold at least one public hearing on such application, and as a result thereof shall transmit its recommendation to the city commission. If the local planning agency fails to make a recommendation, the application for rezoning shall be automatically transmitted to the city commission to be heard at a regularly scheduling public hearing without the recommendation of the local planning agency. All applications for a change in zoning that have been considered by the local planning agency shall be presented by the applicant to the city commission within six months from the date of the local planning agency's final recommendation.

104-23.12 - City Commission

After receipt of the recommendation by the local planning agency, the city commission shall conduct a first reading of the zoning ordinance. If approved on first reading, a second reading or adoption reading shall be held in accordance with the procedures for adoption required by 166.041 F.S.

104-23.13 - Approval Criteria

(A) Recommendations and decisions on zoning map amendments shall be based on consideration of all of the following criteria:

1. Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact.
2. Whether the proposed amendment is consistent with the Comprehensive Plan's stated goals, policies and objectives.
3. Whether the proposed amendment will protect the health, safety, morals, or general welfare of the public.
4. Whether the City and other service providers will be able to provide sufficient public safety, transportation and utility facilities, and services to the subject property, while maintaining sufficient levels of service to existing development.
5. Whether the proposed rezoning will have significant adverse impacts on the natural environment, including air, water, noise, stormwater management, wildlife, vegetation and trees.
6. Whether the proposed rezoning will have significant adverse impacts on other property in the vicinity of the subject property.
7. The suitability of the subject property for the existing zoning classification and proposed zoning classification.

104-23.14 - Subsequent Applications

104-23.14.1 - Applicability

The provisions of this subsection do not apply to any application for a rezoning that is initiated by the city.

104-23.14.2 - Withdrawal

No rezoning application shall be received or filed with the city if, during the previous twelve months, an application was received or filed and withdrawn after a full, fair, complete, and final hearing occurred on the rezoning before the city commission.

104-23.14.3 - Denial of Rezoning

No application for rezoning shall be received or filed with the city within one year after the city commission has denied an application for rezoning of the same property.

104-23.14.4 - Amendments

Any subsequent rezoning requires a new application and shall be processed as set forth in *§ 104-23.2 Applicability* through *§ 104-23.14 Subsequent Applications* of this chapter.

104-23.15 - Scope of Approval

A rezoning does not authorize the development of land. It only authorizes the applicant to apply for other necessary development approvals.

104-23.16 - Recording Procedures

The zoning administrator shall refer to the ordinance as a record of the current zoning status until such time as the official zoning atlas can be changed. The ordinance shall be recorded in the county records by the city clerk.

104-24 - PROJECTS REQUIRING CITY COMMISSION DESIGN REVIEW

104-24.1 - Purpose

Design review is a process that expands on the City's traditional site plan approval procedure by requiring not only a site plan, but also the addition of architectural renderings and a green space plan. When required by *§ 104-24.4 Applicability*, a proposed development or redevelopment project shall be subject to the design review process and approval by the city commission. No application may be considered without all requirements of this section having been met. The purpose of the design review process is to determine the general reasonableness of the project and, while adequate information is required to make this determination, more detailed engineering submittals will still be required for infrastructure site plan approval. This process is designed to support the form-based codes established in *Chapter 103* by managing the spatial relationships of buildings, streets and public spaces.

104-24.2 - Generally

The design review process generally requires submittals by the applicant and subsequent steps of approval by the various departments and boards of the city. The recommendation by staff or that of any board or agency does not constitute affirmative conduct by the city. For such projects requiring city commission review, the design review approval shall be granted by the city commission only, and until that approval is granted, representation by persons not having final decision making authority does not guarantee or constitute design review approval.

104-24.3 - Initiation

If design review is required in accordance with § *104-24.4 Applicability* of this chapter, a design review application, a citizen participation plan (see § 104-24.7.2) shall be submitted to the planning & development department. If the proposed development or development activity is not subject to design review, the applicant shall proceed to infrastructure review followed by vertical building permits.

104-24.4 - Applicability

The design review process is required for any of the project types listed below:

A) Any commercial or institutional project greater than or equal to six thousand (6,000) square feet located in the following zoning districts:

1. Tourist Facility "TF"
2. Downtown Core "DC"
3. Form-based Medium "FX-M"
4. Form-based High "FX-H"

B) Any residential construction project consisting of five (5) or more units.

104-24.6 - Citizen Participation Plan

104-24.6.1 - Purpose

The purpose of citizen participation is to:

- Encourage applicants to pursue early and effective communication with the affected public in conjunction with applications, giving the applicant an opportunity to understand and attempt to mitigate any adverse impact of the proposed project on the adjoining community and to educate and inform the public;
- Provide citizens and property owners of affected areas with an opportunity to learn about applications and to work with applicants to resolve concerns at an early stage of the process; and
- Facilitate ongoing communication between the applicants, and interested citizens.

104-24.6.2 - Applicability

Citizen review is mandatory for any commercial or institutional project abutting any residentially zoned property.

104-24.6.3 - Recommended Procedures for the Citizen Participation Plan

104-24.6.3.1 - Meetings

The applicant shall hold at least one meeting with surrounding neighborhoods. Ideally, the meeting should be held before the LPA public hearing, but not later than the first City Commission public hearing.

104-24.6.3.2 - Affected Neighborhood Area

The affected neighborhood area shall include property owners and/or neighborhood associations within the public hearing notice area required by state statute and the LDC (see *§ 104-12 Notice Provisions* of this chapter). Mailed notices to the affected neighborhood area shall include general information about the project and its location, in addition to the date, time, and location where the neighborhood meeting for citizen participation will take place.

104-24.6.3.3 - Report on Implementation of Citizen Participation

The applicant shall provide a written report on the results of his/her citizen participation efforts with the filing of the final design review application. The report shall be forwarded to the reviewing agencies. At a minimum, the citizen participation report shall include details of techniques the applicant used to involve the public, including:

A) Invitation content, dates mailed, list of addresses noticed, and copy of any other meeting notices or publications;

B) Attendance sheet providing the name, address, and contact information of all those participating; and

C) A summary of concerns, issues, and problems expressed during the meeting(s), and how the application will address or is unable to address such concerns, issues, or problems.

104-24.7 - Design Review

104-24. 7.1 - Pre-Application Conference

Prior to the submission of any formal application, the owner or authorized agent shall contact the city project coordinator and schedule an appointment to attend a development review committee meeting in order to become familiar with the requirements of the regulations of this chapter, the city's comprehensive plan, and other applicable requirements and regulations affecting the project which requires the design review process. This meeting establishes among other things, the compatibility of the proposed development to the surrounding area and the natural environment; conformity to the regulations of this chapter and the comprehensive plan; the health, safety and welfare of city residents; adequacy of existing facilities to serve the development; and the identification of procedural guidelines. Appropriate city departments will, without prejudice to the city, review the project during the pre-application conference meeting and advise the owner or authorized representative of the extent to which the development proposal conforms to appropriate regulations, requirements and policies, and will identify possible modifications necessary to secure compliance. The owner or authorized representative shall not in any way interpret the remarks or statements, expressed or implied, of the city departments or employees as being binding upon the city. The owner (and designated representatives) shall attend this meeting; however, the owner, the owner's engineer and/or architect are also welcome. Appropriate city staff shall also attend.

104-24.7.2 - Completeness Review

No application is complete unless all of the information required by the application, and as listed in *§ 104-24.6.3 Content*, *§ 104-24.6.4 Architectural Renderings*, *§ 104-24.6.5 Greenspace Plan,* and *§ 104-24.6.6 Traffic Impact Analysis*, is included and all filing fees have been paid. An application is deemed incomplete until all required information is received, including any additional information required by staff for review. Current application materials shall be made available in the planning & development

department. Such applications shall be filed in advance of any public hearing, neighborhood meeting or public meeting required pursuant to the LDC and state statute.

104-24.7.3 - Site Plans

The applicant shall submit the appropriate number of plans, as determined by the planning & development department, and may be required to provide an electronic copy. Site plans shall contain at least the following information, as appropriate:

A) Property size, including dimensions.

B) Building size by square footage of use.

C) Percentage of lot covered by the building footprint, and impervious surface ratio.

D) Setbacks and existing easements

E) Number of parking spaces per use, required and provided.

F) Vicinity map, date, north arrow, and scale.

G) Street access to site, including width of proposed driveways, proposed pavement material(s), street names, intersections, ultimate right-of-way dimensions, sidewalks, and traffic circulation.

H) Location of trash enclosures.

I) Location of proposed stormwater facilities / retention areas, outfall connection(s), and a drainage narrative explaining the design intent.

J) Availability of utilities including proposed project connections to existing utilities.

K) Proposed easements, and / or any existing easements intended to be vacated.

L) The plan submittal must contain the following acknowledgment statement, signed and dated by the applicant / developer / owner:

"The site plan, architectural renderings, and green space plan presented in the Design Review process are conceptual in nature and may need to be modified to satisfy the technical requirement of infrastructure and vertical building permit approvals."

~~I)~~ M) Additional information as may be required by city staff in order to conduct a substantive review

104-24.7.4 - Architectural Renderings

The applicant shall submit the appropriate number of color renderings of all proposed buildings, as determined by the planning & development department, and may be required to provide an electronic copy of all renderings. Renderings shall adhere to the following guidelines, or include the following items:

A) Height of all proposed buildings

B) Location and screening of all mechanical equipment, including wall-, ground- and roof-mounted (photographs may be substituted for existing buildings)

C) A depiction of the view from the north, south, east and west, showing surrounding properties of the site

D) A depiction of the relationship of proposed buildings to existing buildings on adjacent properties

E) A definitive statement of which one of the ten mandatory architectural styles has been chosen for the project.

F) Shall be plotted on a scale of not less than 1" = 200'

104-24.7.5 - Greenspace Plan

The applicant shall submit the appropriate number of greenspace plans, as determined by the planning & development department, and may be required to provide an electronic copy of all greenspace plans. The greenspace plan should include the following items:

A) General plant palette, quantities, size and spacing

B) Total amount of open space

C) Percentage of site landscaped

D) Percentage of parking area landscaped

E) Width of perimeter landscape buffers

104-24.7.6 - Traffic Impact Analysis

A) A Traffic Impact Analysis is required for every design review project and shall include at least the following:

1) Existing and proposed daily trip counts

2) Existing and proposed peak hour trip counts

3) An analysis of the existing roadway Level of Service (LOS) and the impact of the project on the same.

104-24.7.7 - Further Information Requests

After the development review committee (DRC) accepts a development application as complete, the zoning administrator or the reviewing authority may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application, if such would be required by the reviewing authority to render a final determination on the merits.

104-24.7.8 - Review and Decision

(A) DRC staff will recommend approval, approval with conditions, or denial to the Local Planning Agency (LPA).

(B) Design Review is made up of three public hearings. The first public hearing will be at a scheduled meeting of the LPA. The LPA will recommend approval, approval with conditions, or denial to the city commission. The second public hearing will be at a regularly scheduled meeting of the city commission. The city commission will approve, approve with conditions, or deny the application. If the application is approved with or without conditions and no changes are required, the city commission may waive the third public hearing.

(C) If the third public hearing is required, it will be at a scheduled meeting of the City Commission. The City Commission will decide on the approval, approval with conditions, or denial of the design review application.

104-24.7.9 - Approval Criteria

In its review of an application for design review, the local planning agency and subsequently the city commission shall consider the requirements in Chapter 105 – Development Standards, Division 2 – Design Review Standards.

104-24.8 – Modifications to Approved Design Review Submittals During Infrastructure and Building Permit Approval

The site plan, architectural renderings, and green space plan presented in the Design Review process are conceptual in nature and may need to be modified to satisfy the technical requirements of infrastructure and vertical building permit approvals. Modifications to a previously approved design review submittal shall be classified as either a minor or major revision. Minor modifications may be administratively approved by the appropriate members of the Development Review Committee and will not be subject to review by the local planning agency or city commission. Major modifications will require local planning agency and city commission approval.

104-24.8.1 - Minor Modifications

Minor modifications to an approved design review application include a shift in on-site location and change in size, shape, intensity, or configuration of less than ten (10%) percent; or a ten (10%) percent or less increase or decrease in either impervious surface or floor area over what was originally approved. Minor modifications may be approved provided that they comply with all of the following criteria:

A) No previous minor modification has been granted pursuant to this section;

B) There will be no detrimental impact on any adjacent property caused by significant change in the appearance or use of the property or any other contributing factor;

C) Nothing in the currently valid design review approval limits such expansion or enlargement; and

D) The modification conforms to the LDC and is in keeping with intent of the adopted comprehensive plan.

104-24.8.2 - Major Modifications

All other revisions shall be classified as major modifications, and shall be processed in the same manner as the initial submittal of the design review process.

104-24.9 - Scope of Approval

The design review approval authorizes the applicant to proceed to the infrastructure approval phase of the development process.

104-24.10 - Recording Procedures

Approved design review submittals shall be maintained in the files of the office of the city clerk. The applicant shall maintain a signed copy of the development approvals.

104-24.11 - Parkland Dedication

When required, see *§ 104-26*

104-24.12 - Platting

When required, see *§ 104-60*

104-25 - DETERMINATION OF MINOR CHANGE TO EXISTING INFRASTRUCTURE APPROVED SITE PLANS

104-25.1 - Purpose

A property owner may request a minor change to an approved infrastructure site plan..

104-25.2 - Applicability

The provisions of this section apply to any application for a minor change to an existing infrastructure approved site plan, which is ten percent (10%) or less than the gross square footage of the development.

104-25.3 - Initiation

All petitions for a minor change to an infrastructure approved existing site plan shall be filed with the zoning administrator. A proposed minor change to an existing site plan may only be initiated by the owner or the designated representative of the eligible development.

104-25.4 - Pre-Application Conference

Before any application is filed with the zoning administrator, the applicant shall attend a pre-application meeting with the development review committee. The purpose of the pre-application meeting is to discuss, in general, the procedures and substantive requirements for the application.

104-25.5 - Completeness Review

No application is complete unless all of the information required by the application is included and all filing fees have been paid. An application is deemed incomplete until all required information is received, including any additional information required by staff for review. Current application materials shall be made available in the planning & development department. Such applications shall be filed in advance of any public hearing, neighborhood meeting or public meeting required pursuant to the LDC or state statute.

104-25.6 - Decision

The decision making authority of a petition for a minor change to an existing infrastructure approved site plan shall be the city commission. The city commission shall approve, approve with conditions, or deny a minor change to an existing site plan.

104-25.7 - Type of Hearing

The public hearing before the city commission shall be conducted as a quasi-judicial public hearing.

104-25.8 - Approval Criteria

In its review of an application for determination of minor change to existing infrastructure approved site plans, the local planning agency and subsequently the city commission shall consider the requirements in Chapter 105 – Development Standards.

104-25.9 - Subsequent Applications

An application for a determination of minor change may be withdrawn at any time; a signed letter or statement by the applicant shall be required. If the application has been advertised, as required by *§ 104-12 Notice Provisions* and state law, an application requesting substantially the same change on all or part of the same described land shall not be reconsidered within one year of withdrawal. No application for a determination of minor change for any lot or parcel that requests the same changes shall be considered within one year of a decision denying the application.

104-25.10 - Recording Procedures

A record of the determination of minor change to an existing infrastructure approved site plan shall be kept in the office of the city clerk and shall be attached to the originally approved site plan.

104-26 - DEDICATION OF PARKLANDS

104-26.1 - Purpose

The purpose of this section is to establish a Land Dedication Ordinance (LDO).

104-26.2 - Payment of Fee in Lieu Thereof

In the situations stated in this section, dedication of parklands or payment of a fee in lieu thereof shall be required:

(A) As a condition of approval of a final plat of a subdivision or of a final site plan of a planned residential development, each subdivider or developer will be required to dedicate land for neighborhood and community park and recreational purposes to serve the immediate and future needs of the residents of the development, or cash contribution in lieu of actual land dedication, or a combination of both, at the option of the city, in accordance with the standards and formula set forth in this section.

(B) As a condition of the approval of any replat of any subdivision or the modification of any site plan of a planned residential development in cases where the density of the land involved will be increased, the developer or subdivider will be required to dedicate land for park and

recreational purposes or to pay the cash contribution in lieu of such dedication in accordance with the standards and formula set forth in this section in an amount appropriate for the increased density.

(C) As a condition for the issuance of a Certificate of Occupancy, in cases where five or more residential dwelling units are to be constructed on one lot, parcel or tract of property under a common ownership or common beneficial interest, whether one or multiple building permits are applied for, the developer will be required to dedicate land for park and recreational purposes or to pay the cash contribution in lieu of such dedication in accordance with the standards and formula set forth in this article. In situations in which there is an overall development configuration and pattern or a development activity in phases in which there is a common ownership or common beneficial interest which will result in five residential units or more being built as a result of the full scope of the development activity or phase development, the obligation for the above dedication of park and recreational lands or the payment of the fee in lieu thereof shall occur upon the issuance of a Certificate of Occupancy for any part of the proposed construction activity. In cases of dispute as to the liability of the developer under this section or as to the extent of the development pattern, or at the option of the City, the developer shall be required to file a declaration under oath in affidavit form as to the ultimate development plan and the ownership or beneficial interest in the property in question. In lieu of a formal decision on the plat to be recorded, the subdivider may, at the City's option, convey the required lands to the City by general warranty deed. The developer of a planned residential development shall deed the lands required to be dedicated by general warranty deed. The developer or builder of a project containing five or more residential dwelling units shall deed the lands required to be dedicated by general warranty deed.

104-26.3 - Conditions

In any of the situations stated in subsection *§ 104-26.2 Payment of Fee in Lieu Thereof*, the land so dedicated or deeded shall not be subject to any reservations of record, encumbrances of any kind, or easements which in the city's opinion will interfere with the use of the land for park or recreational purposes. Where any reservations, encumbrances or easements exist, the city shall require the payment in lieu of the dedication of the lands unless it chooses to accept the land subject to the encumbrances. If any question exists as to the presence of any reservations, encumbrances or easements, at the city's option the city may require the subdivider or developer to present to the city a title insurance policy on the property to be so dedicated or deeded, reflecting the true state of the title.

104-26.4 - General standards

104-26.4.1 - Density Relation

The ultimate density of the proposed development shall bear directly upon the amount of land required for dedication. The total requirement of park and recreational lands shall be six acres of land per 1,000 of ultimate population in accordance with the following classifications:

Park Facility	Area Per 1,000 Population
Neighborhood park	3 acres
Community park	3 acres

104-26.4.2 - Neighborhood Park

A neighborhood park is intended to serve the recreational needs of the immediate neighborhood and will, whenever possible, be located to serve the development dedicating the lands. A central location which will serve equally the entire development is most desirable. Whenever possible the lands or funds paid in lieu thereof will be used for the direct benefit of the persons occupying the lands requiring the dedication or payment. The appropriate size of a neighborhood park is five to 20 acres. The lands dedicated or fees paid in lieu of dedication to meet the neighborhood park requirement shall be used exclusively for neighborhood park development.

104-26.4.3 - Community Park

A community park is a service area designed to serve a significant proportion of the city and can act as a neighborhood park for the residents in the immediate neighborhood. It is designed to serve the residents of several neighborhood parks making up a community. It is normally accessible by automobile as well as by bicycle and should provide parking space for vehicles. The appropriate minimum size for a community park is normally 20 acres or more. The portion of land or monies paid in lieu thereof required to be dedicated or paid under the above formula for a community park need not be located or expended on lands immediately adjacent to the lands giving rise to the dedication or payment. At the city commission's option, however, the community park portion of the lands to be dedicated or fees to be paid may be employed toward the creation of a neighborhood park if, in the city commission's opinion, this use of the lands or money will better serve the residents of the lands giving rise to the payment.

104-26.5 - Population Formula

The following table of persons per unit is generally indicative of current and short range projected trends in family size for new construction and shall be used in calculating the required dedication of acres of land or the cash contributions in lieu thereof:

Type of Unit	Total Persons per unit (Population Standard)
Single-family residential	3
Multifamily unit, cluster type unit (this category includes all units not considered single-family residential units entirely separated from an adjacent building)	2

It is recognized that persons per unit, age distribution and local conditions change over the years, and the specific formula for the dedication of land, or the payment of fees in lieu thereof, as stated in this section, is subject to periodic review and amendment if necessary.

104-26.6 - Determination of Resident Population

Employing the persons per unit standard set forth in *§ 104-26.5 Population Formula*, the resident population of the land to be subdivided or developed shall be determined by multiplying the maximum number of units allowed by the plat or the site plan by the standard of persons per unit. The result will be

the total anticipated population for the land being subdivided and developed and this figure will be multiplied by the constant of .006 to determine the amount of acreage to be dedicated or deeded to the city for recreational and park purposes or to be used to determine the fee to be paid in lieu thereof. This formula is expressed as follows:

Maximum units × persons per unit × .006 = amount of acreage to be dedicated

104-26.7 - Determination of Land or Fee

The determination of the city commission as to whether land shall be dedicated or whether a fee shall be charged, or a combination thereof, shall be final and conclusive. Whether the city commission accepts land dedication or elects to require payment of a fee in lieu thereof, or a combination of both, shall be determined by consideration of the following:

(A) The topography, geology, access and location of land in the development available for dedication.

(B) The size and shape of the subdivision or development, and land available for dedication.

(C) The feasibility of dedication.

(D) Availability or previously acquired property.

(E) Compatibility of dedication with the city's general recreation area plan.

(F) Desirability of a recreational element of the city's general plan at the specific location of the potential dedication.

104-26.8 - Amount of Fee in Lieu of Land Dedication

Upon a determination by the city commission that a fee shall be charged in lieu of dedication of land, in whole or in part, the fee in lieu of land shall be based on the fair market value of the amount of acreage that otherwise would have been dedicated as park and recreation lands. The method of determining the fair market value of the amount of acreage that otherwise would have been dedicated as park and recreation land shall be established from time to time by resolution of the city commission. Only upland lands (non-submerged land) that otherwise would have been dedicated as park and recreation lands shall be considered in the per acre valuation computation if a fee in lieu of land is chosen by the city commission. Prior to the time for the fee to be paid, the city commission shall determine the present fair market value of the land that would have been required to be dedicated, and such figure shall be used in making any calculation in this section unless the subdivider or developer files a written objection thereto. In the event of any such objection, the developer shall submit an MAT appraisal showing the fair market value of the lands required to be donated and final determination of the fair market value per acre of such land shall be made by the city commission based upon such information submitted by the subdivider or developer and from such other information which may be submitted to the city commission by other sources.

104-26.9 - Credit for Private Recreation Areas

A finding that the standards listed below have been met shall be necessary to allow the credit for 75 percent of the neighborhood park requirement. Where private open space for park and recreational purposes is provided in a proposed development and such space is to be privately owned and maintained

by the future residents of the subdivision, planned residential development or multiunit development, partial credit not to exceed 75 percent may be given against the requirement of land dedication for neighborhood park facilities (total of 2.25 acres/1,000 residents), or payment of fees in lieu thereof, if the City Commission finds that it is in the public interest to do so and if all the following standards are met:

(A) Easements, setbacks, and buffers required to be maintained by the zoning and building code regulations shall not be included in the computation of such recreational lands. However, green space or hardscape, such as court yards and common areas, designed for human interaction and gathering, are encouraged and shall be counted toward the private credit.

(B) The private ownership and maintenance of the recreational lands shall be set forth in a recorded covenant and shall be restricted for park, recreational, or gathering purposes, which runs with the land in favor of the future owners of property and which cannot be defeated or eliminated without the consent of the City or its successor.

(C) The proposed private recreational area is reasonably adaptable for use for park, recreational, or gathering purposes, taking into consideration such factors as size, shape, topography, geology, access and location.

In general, a substitution of private recreational areas will imply a substantially higher degree of improvement in the installation of recreational facilities, including equipment by the developer as part of his/her/their obligation. Detailed plans of such areas, including specifications and facilities to be installed, must be approved by the City before any credit is given for private recreational areas, and the subdivider or developer must guarantee that these private recreation areas will be permanently maintained for such use by the execution of the appropriate legal documents. When an adjustment for private recreational areas is warranted, it will be necessary to compute the total park land dedication that would have been required from the subdivision, planned residential development or multiunit development, and then subtract the credit to be given.

104-26.10 - Time of Dedication or Payment of Fees; Procedure

At the time of a final plat or replat of a subdivision, or a final site plan or amendment of any site plan of a planned residential development, or the development of five or more residential dwelling units, the City Commission shall determine, pursuant to the standards set forth in this article, the land to be dedicated and/or fees to be paid by the subdivider or developer. Upon the issuance of a Certificate of Occupancy, the subdivider or developer shall dedicate the land and/or pay the fees as deemed appropriate by the City Commission. Open space written covenants for private park or recreational facilities shall be submitted to the City and recorded in the Public Records of Pinellas County, Florida, prior to the issuance of a Certificate of Occupancy. At the time of the parkland dedication required by this section, the City Commission shall specify when development of any private recreational facilities may be developed in phases. Failure to develop private recreational facilities in accordance with the schedule approved by the City Commission shall constitute grounds for the withholding of the Certificate of Occupancy until such completion is accomplished or until such guarantee of accomplishment is provided to the City.

104-26.11 - Use of Fees

The cash contributions in lieu of park and recreation land dedication shall be held in trust by the city solely for the acquisition of park and recreation land as classified in this article, which will be available to serve the immediate or future needs of the residents of that subdivision or development or for the improvement of other existing local park and recreation land which already serves such needs. The neighborhood park portion of the cash contribution shall be used to acquire park lands or improve recreational areas in the general vicinity of the subdivision or development providing such funds, as is reasonably needed or available. The cash contribution for the community park requirement shall be used for the development of community park facilities, to acquire lands, or to improve facilities to ensure the

availability of community parks for the additional residents generated by the subdivision or development giving rise to such contribution. Cash contributions in lieu of park and recreation land dedication shall be expended or obligated to a particular purpose within seven years from the date of receipt. Such funds shall be expended for such purposes within a reasonable time following obligation of those funds.

DIVISION 3: - DEVELOPMENT APPROVALS REQUIRING LEGISLATIVE PUBLIC HEARINGS

104-30 - LEGISLATIVE PUBLIC HEARINGS

104-30.1 - Generally

The purpose of a legislative hearing is to provide the public with an opportunity to be heard consistent with procedures provided by state statute. Unlike quasi-judicial hearings, a legislative proceeding does not require due process protections, such as the right of the parties to offer evidence, cross-examination, sworn testimony, or written findings of fact. Similar to quasi-judicial hearings, legislative hearings are public hearings preceded by notice to interested parties. Public hearings are required for legislative review hearings, such as amendments to a comprehensive plan, amendments to this chapter (including zoning provisions of this chapter and the zoning map), annexations, vacations, and development agreements.

104-30.2 - Applicability

This section applies to any development application involving a legislative public hearing.

104-30.3 - Meetings

The local planning agency shall hold regularly scheduled public hearings to receive and review public input on comprehensive plan amendments, land development code LDC) amendments and development agreements as required by this chapter. The local planning agency shall recommend that the city commission approve, approve with conditions, or deny such development applications. Other legislative development approvals (i.e. vacations) that do not require local planning agency review will proceed directly to the city commission.

104-30.4 - Conduct of Hearing

Testimony may be presented by the applicant, and any member of the public, but need not be submitted under oath or affirmation. The local planning agency or city commission may establish a time limit for testimony and may limit testimony where it is repetitive.

104-30.5 - Record of Proceedings

The agency conducting the hearing shall record the minutes of the proceedings by any appropriate means as prescribed by rule and consistent with state law.

104-31 - COMPREHENSIVE PLAN AMENDMENTS

104-31.1 - Purpose

This section establishes uniform procedures for the amendment of the comprehensive plan. A comprehensive plan amendment may be authorized if an applicant can prove the site would better serve the city with another use than the one already designated.

104-31.2 - Applicability

This section applies to any amendment to the comprehensive plan.

104-31.3 - Initiation

An application for a comprehensive plan amendment shall be filed with the zoning administrator and shall contain the information set forth in the application. An amendment may be initiated in either of the following situations:

(A) A property owner or the designated representative may initiate a comprehensive plan amendment to the land use map.

(B) The city commission, the local planning agency, or the zoning administrator may initiate a request for an amendment to the future land-use maps of the comprehensive plan, or any text amendment as required by state law. Comprehensive plan amendments will follow the procedures set forth in Florida Statutes 163.3184.

104-31.4 - Pre-Application Conference

Before any application is filed, the applicant shall attend a pre-application meeting with the zoning administrator. The purpose of the pre-application meeting is to discuss, in general, the procedures and substantive requirements for the application.

104-31.5 - Completeness Review

No application is complete unless all of the information required by the application is included and all filing fees have been paid. An application is deemed incomplete until all required information is received, including any additional information required by staff for review. Current application materials shall be made available in the planning & development department. Such applications shall be filed in advance of any public hearing, neighborhood meeting or public meeting required pursuant to the LDC or state statute.

104-31.6 - Decision

The local planning agency shall hold a legislative public hearing and shall render its recommendation in accordance with the procedures set forth in *§ 104-30 Legislative Public Hearings* of this chapter. The city commission shall hold two public hearings for the adoption of an ordinance and one public hearing for the adoption of a resolution, shall render its decision in accordance with the procedures set forth in *§ 104-30 Legislative Public Hearings,* and shall require not less than three affirmative votes of the city commission.

104-31.7 - Approval Criteria

(A) Comprehensive plan amendments may be approved by the City Commission only following a determination that the proposed amendment is consistent with the overall purpose and intent of the Comprehensive Plan and that any one of the following criteria has been met

1. There was an error in the original Comprehensive Plan adoption;

2. The City Commission failed to take into account then-existing facts, projections, or trends that were reasonably foreseeable to exist in the future;

3. Events, trends, or facts after adoption of the Comprehensive Plan have changed the City Commission's original findings made upon plan adoption; and/or

4. Events, trends, or facts after adoption of the Comprehensive Plan have changed the character or condition of an area so as to make the proposed amendment necessary.

(B) In addition to the above-listed criteria, any proposed amendment is subject to the following additional review standards:

1. That the amendment is not in conflict with any portion of the goals and policies of the plan.

2. That the amendment constitutes a substantial benefit to the City and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.

3. The extent to which the proposed amendment and other amendments in the general area are compatible with the land use goals of the plan and that they avoid creation of isolated uses that will cause incompatible community form and a burden on public services and facilities.

4. That the development pattern contained in the existing plan does not provide adequate and appropriate optional sites for the use or change being proposed in the amendment.

5. That the impact of the amendment, when considered cumulatively with other applications and development in the general area, will not adversely impact the City or a portion of the City by:

a. Significantly altering acceptable existing land use patterns;
b. Having significant adverse impacts on public services and facilities that are needed to support the current land use and which cannot be mitigated to the maximum extent feasible;

c. Adversely impacting environmentally sensitive areas or resources; or

d. Adversely impacting existing uses because of increased traffic on existing systems.

6. That site conditions, including but not limited to topography, utility corridors/easements, drainage patterns, noise, odors, or environmental contamination, would make development under the current plan designation inappropriate.

104-31.8 - Scope of Approval

The approval of an amendment to the comprehensive plan does not authorize the use, occupancy, or development of property. The approval of a comprehensive plan amendment shall allow the applicant to apply for other required development approvals as required by this land development code.

104-31.9 - Recording Procedures

Comprehensive plan amendments will be adopted in accordance with Florida Statute 163.3184.

104-32 - LAND DEVELOPMENT CODE TEXT AMENDMENTS

104-32.1 - Purpose

This section provides uniform procedures for the amendment of the LDC by the city commission whenever the public necessity, convenience, general welfare, or good planning practice so requires.

104-32.2 - Applicability

The provisions of this section apply to any application to revise the text of the LDC.

104-32.3 - Type of Hearing

The public hearings before the local planning agency and city commission shall be conducted as legislative public hearings.

104-32.3.1 - Local Planning Agency

The local planning agency shall hold at least one public hearing on the request, and as a result thereof shall transmit its recommendation to the city commission.

104-32.3.2 - City Commission

After receipt of the recommendation of the local planning agency, by ordinance the city commission shall approve or deny the land development code text amendment.

104-32.4 - Approval Criteria

Recommendations and decisions on Development Code text amendments shall be based on consideration of any or all of the following criteria:

104-32.4.1 - Consistency

An amendment to the land development code text shall be consistent with the adopted comprehensive plan.

104-32.4.2 – Errors, Conditions or Trends

Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact;

104-32.4.3 - Health, Safety, and Welfare

A land development code text amendment shall bear a substantial relationship to the public health, safety, morals, or general welfare, or protect and preserve historical and cultural places and areas.

104-32.5 - Recording Procedures

Approved land development code amendments shall be maintained in the files of the office of the city clerk.

104-33 - DEVELOPMENT AGREEMENTS

104-33.1 - Purpose

This section promotes and facilitates orderly and planned growth and development through the use of the development agreement process between an applicant and the City of Dunedin. This section:

(A) Eliminates uncertainty in the development approval process;

(B) Assures applicants that, upon approval of their project, they may proceed in accordance with existing policies, rules, and regulations;

(C) Encourages the achievement of growth management goals and objectives, including assurances of adequate public facilities at the time of development, proper timing and sequencing of development, effective capital improvements programming, and appropriate development incentives in accordance with existing policies, rules, and regulations;

(D) Encourages plan implementation through a more flexible development procedure;

(E) Provides a mechanism to ensure compatible development and protect neighboring properties; and

(F) Provides flexibility in development proposals to request site specific standards that are unique to a location to protect the abutting properties or to serve the public.

104-33.2 - Applicability

Development agreements shall be considered under the following procedures: The city commission, in its sole and exclusive discretion, may enter into development agreements with the legal and equitable owners of real property within the city limits as provided in 163 F.S., and as is further set forth under the terms of this article. The entry into a development agreement by the city shall in no way whatsoever limit or modify any legislative power by the city to adopt ordinances, resolutions, regulations or to make executive administrative or legislative decisions of any kind which it had the power to make prior to the entry of such development agreement, except to the degree that the development agreement, by its express terms and not by implication, gives vested rights to the property owner as to certain development permissions, required improvements and similar matters. No development agreement shall, by its express terms or by implication limit the right of the city commission to adopt ordinances, regulations or to adopt policies that are of general application or specific as to the property subject to the development agreement in the city, except as is expressly provided in 163 F.S..

104-33.3 - Criteria for Entering into Development Agreements

The city commission may enter into a development agreement pursuant to this section only if it finds that:

(A) The development agreement has been duly processed and approved in accordance with the provisions of this section;

(B) The project to which the development agreement pertains is consistent with the comprehensive plan and capital improvements program, zoning regulations, impact fee regulations, and other applicable requirements; and

(C) The development subject to the agreement contains outstanding features that advance the policies, goals, and objectives of the comprehensive plan beyond mere conformity, in accordance with the criteria established in the zoning regulations; or the property owner agrees to make contributions of capital improvements for community-related facilities for one or more types of public improvements, which are in excess of the development's proportionate share of the costs of the facilities needed to serve the development and which thereby advances provision of such facilities to serve the community.

104-33.4 - Initiation

A property owner desiring to enter into a development agreement with the city shall make a written request for such development agreement to the city manager and pay the fee as is established by motion of the city commission. Such written request shall identify the lands which are desired to be subject to the development agreement and shall identify all legal and equitable owners having any interest in such property and such ownership interests shall be certified by a title company or an attorney at law licensed to practice in the state. Any partnerships, corporations, joint ventures or other persons with interest in such partnerships, corporations or joint ventures shall be revealed. The written request shall generally describe the development proposal.

104-33.4.1 - City Commission Preliminary Approval

Upon receipt of a request for a development agreement, the city manager shall place the matter on the agenda of the city commission and the city commission shall, in its discretion, determine whether or not it desires the city manager to pursue negotiations with the property owner relative to the entry into a development agreement. If the city commission determines not to proceed with further negotiations or discussions regarding the development agreement, the fee paid by the property owner shall be refunded. If the city commission instructs the city manager to proceed with further negotiations, the fee shall thereafter be nonrefundable regardless of whether or not a development agreement is ultimately executed between the city and the property owner.

104-33.4.2 - Contents of the Application

Upon the city commission determining that it desires to proceed with further negotiations relative to a development agreement, the property owner shall promptly submit a development proposal for the subject property to include the following information:

(A) Legal description of the lands to include identification of lands or out-parcels to be exempt from the agreement.

(B) All persons, firms or corporations having a legal or equitable interest in the land.

(C) The desired duration of the development agreement shall be as determined by the city commission in its legislative discretion, but shall not exceed the maximum time permitted by chapter 163 F.S. In the event that state law does not define the maximum duration of a development agreement, the maximum duration shall be 20 years.

(D) The development uses desired to be permitted on the land, including population densities and building intensities and heights.

(E) A description of all existing and proposed public facilities that will serve the land.

(F) Identification of zoning district modifications or land use plan district amendments that will be required if the proposed development agreement were to be approved.

(G) The zoning and present land use categories of all abutting property. The complete names and addresses of all property owners abutting or lying within 500 feet of the subject property as currently listed in the county records one week prior to the agreement application.

(H) A certified property boundary survey prepared by a state registered surveyor no more than 12 months prior to the property owner's written request for the development agreement.

(I) All environmentally sensitive lands, state department of environmental protection jurisdictional wetlands and lands subject to the regulations of the Southwest Florida Water Management District shall be shown on a survey of the property.

(J) All existing and proposed utilities and the manner in which existing utilities will be extended to the site and/or expanded for the use of the development, including water, reclaimed water, sewer, gas, electricity, CATV, and other utilities.

(K) A master drainage plan for the development indicating thereon the existing drainage features and land topography along with and superimposed thereon the proposed drainage features indicating clearly the means by which the final developed land will collect, attenuate and conduct the drainage runoff from the lands developed and tributary thereto.

(L) The location, type, size and height of fencing, earth berms, retaining walls or screen planting to buffer abutting properties or as is otherwise required by city regulations.

(M) A grading plan and included therewith the elevation requirements of the National Flood Insurance Program as applicable to the city.

(N) A landscape plan and existing tree survey.

(O) Any deed restrictions existing or being imposed upon the lands for development.

(P) A list of all federal, state and local permit requirements.

(Q) Private or public parklands required or proposed for parkland impact fee purposes.

(R) A description of any reservation or dedication of land for public purposes. The development agreement shall provide specifically how the land dedication code obligation for the project, if any, is to be met. If the land is to be conveyed to the city in discharge of the land dedication code obligation, the development agreement will provide that such conveyance will be by warranty deed and will be accompanied by a title insurance policy (at the expense of the property owner) in an amount not less than the fair market value of the land.

(S) Any further information that the zoning administrator may require because of the particular nature or location of the development.

104-33.5 - Contents of Development Agreement

104-33.5.1 - Mandatory Provisions

The development agreement shall include, at a minimum, provisions pertaining to the following:

(A) A legal description of the land subject to the agreement, and the names of its legal and equitable owners.

(B) The duration of the agreement.

(C) The development uses permitted on the land, including population densities, and building intensities and height

(D) A description of public facilities that will service the development, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development.

(E) A description of any reservation or dedication of land for public purposes.

(F) A description of all development permits approved or needed to be approved for the development of the land

(G) A finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations.

(H) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens.

(I) A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.

(J) The zoning and present land use categories of all abutting property.

(K) The complete names and addresses of all property owners abutting or lying within 500 feet of the subject property as currently listed in the county records one week prior to the agreement application.

(L) A copy of the design review plan.

(M) The city commission may provide for any conditions, terms, restrictions, or other requirements determined to be necessary for the public health, safety or welfare of its citizens and such conditions, terms or restrictions may be more onerous or demanding than those otherwise specifically required by the land development standards then existing in the city and may provide for off-site improvements, screening, buffering, setbacks, building height restrictions, land coverage restrictions and similar types of matters that would not otherwise be required of the development under the existing city ordinances and regulations.

(N) A statement indicating that failure of the development agreement to address a particular permit, condition, term or restriction shall not relieve the property owner of the necessity of complying with the law governing permitting requirements, conditions, terms or restrictions and that any matter or thing required to be done under existing ordinances of the city shall not be otherwise amended, modified or waived unless such modification, amendment or waiver is expressly provided for in the development agreement with specific reference to the code provision so waived, modified or amended.

(O) The development agreement shall specifically provide that development permissions will be obtained at the sole cost of the property owner and that, in the event that any development permissions are not received, that no further development of the property shall be allowed until such time as the city commission has reviewed the matter and determined whether or not to terminate the development agreement or to modify it in a manner consistent with the public interest. Under these conditions, action in reliance on the development agreement or expenditures in pursuance of its terms or any rights accruing to the property owner thereunder, shall not vest any development rights in the property owner, nor shall it constitute partial performance entitling the property owner to a continuation of the development agreement.

104-33.6 - Public Hearing Notice Requirements

Notice of the local planning agency public hearing and subsequent city commission hearing shall be provided in the manner required by *§ 104-12 Notice Provisions* of this chapter, and specifically provided by Table 104-1.2.

104-33.7 - Decision

104-33.7.1 - Local Planning Agency Recommendation

The local planning agency shall conduct a legislative public hearing and shall make a recommendation to the city commission by the affirmative vote of at least a majority of its voting members, as follows:

A) That the development agreement be adopted as proposed;

B) That the development agreement be adopted with modifications, as proposed by the local planning agency;

C) That the development agreement be denied. Any action taken by the local planning agency shall be by resolution; or

D) If not reviewed within 60 days, the request shall be forwarded to the city commission for their review.

104-33.7.2 - City Commission Public Hearings

After consideration of the recommendation by the local planning agency, the city commission shall consider the proposed development agreement in the form of an ordinance during two legislative public hearings. The city commission may:

A) Approve the development agreement;

B) Approve the development agreement with modifications; or

C) Reject the development agreement, in whole or in part, and take such further action as it deems to be in the public interest.

104-33.8 - Execution of Development Agreement

All development agreements under this section shall be executed by all persons having legal title or equitable interest in the subject property, including the fee simple owner and any mortgagees, unless the city attorney approves the execution of the development agreement without the necessity of such joinder or subordination on a determination that the substantial interests of the city will not be adversely affected thereby. A development agreement is determined to be a legislative act of the city in the furtherance of its powers to zone and regulate development within its boundaries and, as such, shall be superior to the rights of existing mortgagees, lienholders or other persons with a legal or equitable interest in the subject property and the development agreement and the obligations and responsibilities arising thereunder on the property owner shall be superior to the rights of such mortgagees or lienholders and shall not be subject to foreclosure under the terms of mortgages or liens entered into or recorded prior to the execution and recordation of the development agreement.

104-33.9 - Duration of Development Agreement and Relationship to Comprehensive Plan

The duration of a development agreement shall not exceed 20 years. It may be extended by mutual consent of the city commission and the developer/property owner, subject to a public hearing in accordance with 163.3225 F.S. No development agreement shall be effective or be implemented by the city unless the city's comprehensive plan and plan amendments implementing or related to the agreement are found in compliance by the state land planning agency in accordance with 163.3184 F.S., 163.3187 F.S., or 163.3189 F.S.

104-33.10 - Recording of Agreement

Within 14 days after the city makes a complete execution of a development agreement, the city shall record the agreement with the clerk of the circuit court of Pinellas County. A copy of the recorded development agreement shall be submitted to the state land planning agency within 14 days after the agreement is recorded. A development agreement shall not be effective until it is properly recorded in the public records of the county and until 30 days after having been received by the state land planning agency pursuant to this section. The burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

104-33.11 - Coordination of Development Agreement Application with Other Discretionary Approvals

It is the intent of this section that the application for a development agreement will be made and be considered simultaneously with the review of other necessary applications, including, but not limited to: rezoning; subdivision and plat approval; annexations, conditional use permits, variances and design reviews. If combined with an application for rezoning; subdivision and plat approval; annexations, conditional use permits, variances and design review projects, the application for a development agreement shall be submitted with said application and shall be processed, to the maximum extent possible, jointly to avoid duplication of hearings and repetition of information. A development agreement is not a substitute for, nor an alternative to, any other required development approval, and the applicant must comply with all other required procedures for development approval.

104-33.12 - Existing and Subsequently Adopted Rules, Regulations, Ordinances, Laws, and Policies

(A) Unless otherwise provided by the development agreement, rules, regulations, ordinances, laws, general or specific plans, and official policies of the City of Dunedin governing permitted uses, development, density and intensity of use, permitted uses of the land, growth management, adequacy of public facilities, environmental considerations, and governing design, improvement, and construction standards and specifications applicable to the subject property shall be those in force and effect at the time of commencement of the term of the development agreement.

(B) The adoption of a development agreement, however, shall not prevent the city commission, in subsequent actions applicable to the property or to the city commission in general, from applying such newer, modified rules, regulations, ordinances, laws, general or specific plans, and official policies that do not conflict with those applicable to the property at the time of commencement of the development agreement and that do not prevent the development of the land as set forth in the development agreement. The existence of the development agreement shall not prevent the city commission from denying or conditionally approving any subsequent project development application not expressly addressed in said agreement on the basis of such existing or new rules, regulations, and policies. Changes in regulations or ordinances relative to public safety standards shall be observed regardless of provisions of the development agreement.

(C) Application, processing and inspection fees, development fees, improvement standards as set forth by the city commission subdivision regulations and construction standards, and specifications that are revised during the term of a development agreement shall apply to the property, provided that:

1. Such fees, standards, and specifications apply to public works within the city;
2. Their application to the subject property is prospective only as to applications for building and other development approvals or approvals of tentative subdivision maps not yet accepted for processing; and
3. Public safety regulations or standards shall be retroactive.

(D) The ordinances and regulations of the city governing the development of the land at the time of the execution of any development agreement provided for under this article shall continue to govern the

development of the land subject to the development agreement for the duration of the development agreement. At the termination of the duration of the development agreement, all then existing codes shall become applicable to the project regardless of the terms of the development agreement and the development agreement shall be modified accordingly. The application of such laws shall not include any fee structure, including any impact fees, then in existence or thereafter imposed.

(E) The city may apply ordinances and policies adopted subsequently to the execution of the development agreement to the subject property if they are:

1. Not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities or densities as allowed under the terms of the development agreement.
2. Essential to the public health, safety and welfare.

(F) All development agreements shall specifically provide that subsequently adopted ordinances and policies of general application in the city, specifically including impact fees and public safety standards shall be applicable to the lands subject to the development agreement and that such modifications are specifically anticipated in the development agreement.

104-33.13 - Subsequently Adopted State and Federal Laws

In the event that state or federal laws or regulations are enacted following approval of a development agreement that prevent or preclude compliance with one or more provisions of the development agreement, the provisions of the agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations, and every such development agreement shall so provide.

104-33.14 - Periodic Review, Termination, or Modification

The city commission shall review land subject to a development agreement at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. For each annual review conducted during years 6 through 10 of a development agreement, the review shall be incorporated into a written report which shall be submitted to the parties to the agreement and the state land planning agency. The state land planning agency shall adopt rules regarding the contents of the report, provided that the report shall be limited to the information sufficient to determine the extent to which the parties are proceeding in good faith to comply with the terms of the development agreement. If the city finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the agreement may be revoked or modified by the city.

104-33.15 - Amendment or Cancellation of Agreement

A development agreement may be amended or canceled, in whole or in part, by mutual consent of the parties to the development agreement or their successors in interest. The procedure for amendment or cancellation shall be the same as that for adoption as provided in *§ 104-33.11 Existing and Subsequently Adopted Rules, Regulations, Ordinances, Laws, and Policies* of this chapter. Notice of intent to amend or cancel any portion of the development agreement shall be given in the manner provided in *§ 104-12 Notice Provisions* of this chapter.

104-33.16 - Annexation

If a development agreement relates to property located outside the incorporated area of the city, the development agreement does not become operative unless annexation proceedings to annex the property to the city are completed within the period of time specified by the development agreement or any extension of such time. Any development agreement relating to such property shall specify a time period within which such property shall be annexed to the city.

104-34 - ANNEXATIONS

104-34.1 - Purpose

This section provides uniform procedures for voluntary annexation requests from residents of unincorporated portions of Pinellas County that are eligible for annexation. Involuntary annexations will follow the procedures in Florida Statutes Chapter 171 (Local Government Boundaries).

104-34.2 - Applicability

The provisions of this section apply to any application involving voluntary annexation procedures.

104-34.3 - Initiation

(A) All petitions for annexation shall be filed with the zoning administrator.

(B) A proposed annexation may only be initiated by the owner of the eligible parcel. The applicant and/or the zoning administrator may add petitions for rezoning and land use amendment concurrently with an application for annexation.

104-34.4 - Pre-application Conference

Before any application is filed, the applicant shall attend a pre-application meeting with the zoning administrator. The purpose of the pre-application meeting is to discuss, in general, the procedures and substantive requirements for the application.

104-34.5 - Completeness Review

No application is complete unless all of the information required by the application is included and all filing fees have been paid. An application is deemed incomplete until all required information is received, including any additional information required by staff for review. Current application materials shall be made available in the planning and development department. Such applications shall be filed in advance of any public hearing, neighborhood meeting or public meeting required pursuant to the LDC or state statute.

104-34.6 - Decision

Upon certification by the zoning administrator that the application is complete and required fees have been paid, the application shall be deemed complete and referred to the local planning agency for its review and recommendation.

104-34.7 - Type of Hearing

The city commission shall conduct a legislative public hearing in deciding an application for annexation.

104-34.8 - City Commission

After receipt of the staff and local planning agency recommendation, the city commission shall approve or deny the annexation. If the proposed annexation is inconsistent with the comprehensive plan, an application for an amendment to the comprehensive plan shall be submitted by the applicant. Amendments to the official zoning map and the comprehensive plan due to annexation may be considered concurrently.

104-34.9 - Scope of Approval

An approved annexation does not authorize the development of land. Annexation applications with appropriate zoning and land use designations can be heard concurrently by the city commission.

104-34.10 - Recording Procedures

Annexation involves changing the existing city limit boundaries and so the form of the amending ordinance shall contain a legal description of the land to be annexed. The zoning administrator shall refer to the attested ordinance as a record of the annexation until such time as the zoning and land use maps can be changed.

DIVISION 4: - STAFF LEVEL DEVELOPMENT APPROVALS

104-40 - DEVELOPMENT APPROVAL

104-40.1 - Purpose

The purpose of this section is to prescribe procedures for development approvals that do not require quasi-judicial or legislative notice or a public hearing. A public hearing is not required for development approvals set forth in this section.

104-40.2 - Applicability

A staff level development approval is required for the following types of development approvals:

(A) Building permits.

(B) Certificates of occupancy.

(C) Administrative adjustments.

(D) Written interpretations.

(E) Design review projects.

No land shall be disturbed and no building or structure shall be erected, added to, or structurally altered within the city until staff level development approvals have been issued by the engineering and/or planning & development department. All staff level development approvals shall comply with the requirements of the LDC.

104-40.3 - Records

The zoning administrator shall maintain a record of all staff level development orders.

104-41 - BUILDING PERMITS

104-41.1 - Purpose

A building permit is required for the formal approval of building plans by the department of planning & development as meeting the requirements of prescribed codes. It is an authorization to proceed with the construction or reconfiguration of a specific structure at a particular site, in accordance with the approved drawings and specifications.

104-41.2 - Procedures

All building permit activity will be in accordance with the administration and procedures as defined in the Florida Building Code.

104-41.3 - Time Limits for Completion of Construction

104-41.3.1 - Findings

Incomplete construction projects within the city result in adverse impacts on its residents and businesses from the lack of construction activity. These adverse effects can include, but are not limited to attractive nuisance for children and vagrants, accumulation of trash and debris, overgrowth of grass and weeds and perceived sense of blight. It is in the interest of the health, safety, and welfare of the citizens of the city to place a reasonable time limit on the duration of each construction project, to balance the needs of the owner of the project with those of the neighbors and the community, for the safe and peaceful enjoyment of their properties.

104-41.3.2 - Application

A time limit shall apply to all construction, including all additions, alterations, modifications, repairs, and improvements, which require a building permit.

104-41.3.3 - Time Limits for Construction Completion Required

As part of the building permit application, a reasonable valuation must be assigned to the project and approved by the building official. Based on that valuation, a construction time limit, commencing on the date of issuance of the building permit, shall be established in accordance with *Table 104-4.1 Construction Time Limits*.

Table 104-4.1 Construction Time Limits

Estimated Value of Construction	Construction Time Limit(months)*
$0 to $50,000	6 months

$50,001 to $100,000	9 months
$100,001 to $500,000	18 months
Greater than $500,000	24 months
**Note: Different construction time limits may be established if set forth within a development agreement.*	

104-41.3.4 - Landscaping Extension

For landscaping work required by *Chapter 105* of the LDC, the applicant shall have an additional 90 days after the date of final inspection approval of the project to complete all the landscaping requirements.

104-41.3.5 - Extension

Construction time limits may only be extended for the following three reasons:

(A) In the event a project has not passed a final inspection in the allotted time period pursuant to *§ 104-41.3.3* , the applicant may request, in writing, one six-month (180 day) extension to complete the work for good cause shown arising from circumstances beyond the reasonable control of the applicant, which may be granted at the discretion of the building official. This initial extension is subject to payment of the associated fees, which is listed in *Table 104-4.2 Extension Fees*, and must be made 30 days prior to the expiration of the building permit. This initial extension is subject to an inspection by the building official prior to the expiration of the original permit and may only be granted if the inspection reveals no violations of any fire, safety or property maintenance codes at the project site.

(B) In the event a project has not passed a final inspection at the expiration of the initial six month (180 day) extension, the applicant may request, in writing, no more than one additional four-month (120 day) extension to complete the work for good cause shown arising from circumstances beyond the reasonable control of the applicant, which may be granted at the discretion of the building official. This additional extension is subject to payment of the associated fees, which is listed in *Table 104-4.2 Extension Fees*, and must be made 30 days prior to the expiration of the building permit. This additional extension is subject to an inspection by the building official prior to the expiration of the initial six month (180-day) extension. The extension can only be granted if the inspection reveals no violations of any fire, safety or property maintenance codes at the project site.

(C) For single family residential construction projects where the homeowner is acting as the contractor and is lawfully residing in the property, the homeowner may request, in writing, up to two six-month (180 day) extensions, without charge, to complete the work for good cause shown arising from circumstances beyond the reasonable control of the applicant, which one or both may be granted at the discretion of the building official. Both extensions are subject to an inspection by the building official prior to the expiration of the original permit in which it is determined that there exist no violations of any fire, safety or property maintenance codes at the project site, and the extension may only be granted if all of the following conditions apply:

1. The home is occupied during the full construction period;
2. The property is kept in a neat and clean condition;

3. Building materials are screened from adjacent properties and public rights of way;
4. There has been demonstrated regular progress towards completion of the construction;
5. There exist no unresolved building code violations at the time the extension is requested.

Table 104-4.2 Extension Fees

Type of Extension	Extensions Fee
Initial six-month (180 day) extension *§ 104-41.3.5(A)*	$1,000.00
Additional four-month (120 day) extension *§ 104-41.3.5(B)*	$1,500.00
Homeowner projects, up to two six-month (180 day each) extensions *§ 104-41.3.5(C)*	none

104-41.4 - Construction Completion

For the purpose of this section, construction shall be deemed complete upon the final performance of all construction work, including, but not necessarily limited to, exterior repairs and remodeling, total compliance with all conditions of required of the building permit, and the clearing and cleaning of all construction-related materials and debris from the site. A certificate of occupancy and/or a final inspection and approval of the construction work by the building official or a building inspector shall mark the date of construction completion. Deadlines for the completions of landscaping are set forth in *§ 104-41.3.4* .

104-41.5 - Incomplete Projects

Incomplete projects shall be taken to the city's code enforcement board and may be subject to a daily fine.

104-42 - CERTIFICATES OF OCCUPANCY

104-42.1 - Purpose

A certificate of occupancy is the authorization issued by the building official, certifying a newly completed (or substantially completed) building meets the required building code, safety and health standards and therefore fit for human habitation.

104-42.2 - Requirement

All uses, including nonconforming uses, shall obtain a certificate of occupancy where required by the Florida Building Code or other applicable national building code, state law, and this LDC. All of the requirements and conditions contained in any development approvals applicable to the property that have not been met at the time of the issuance of the certificate of completion, shall be required to have been met before the issuance of any certificate of occupancy.

104-43 - ADMINISTRATIVE ADJUSTMENTS

104-43.1 - Purpose

This section sets out the required review and approval procedures for administrative adjustments, which are minor deviations from otherwise applicable standards that may be approved jointly by the zoning administrator and the city manager.

104-43.2 - Applicability

The zoning administrator and the city manager shall be authorized to approve the following types of administrative adjustments:

(A) Alternate parking plans involving a modification of ten percent or less of any of the off-street parking and loading standards in *Chapter 105*;

(B) Modifications of ten percent (10%) or less of any of the landscaping and buffering standards in *Chapter 105.*

104-43.3 - Initiation

Applications for administrative adjustments shall be submitted to the zoning administrator.

104-43.4 - Completeness Review

The zoning administrator shall review each application for an administrative adjustment.

104-43.5 - Decision

The zoning administrator and the city manager shall approve, approve with conditions or deny the application. Failure of both to agree upon a decision constitutes a denial of the request for administrative adjustment.

104-43.6 - Approval Criteria

In its review of an application for an administrative adjustment, the zoning administrator and the city manager shall consider the criteria as defined in *§ 104-43.6.1 Health, Safety* and *Welfare § 104-43.6.5 Other Factors* of this chapter.

104-43.6.1 - Health, Safety, and Welfare

The requested administrative adjustment eliminates an unnecessary inconvenience to the applicant and will have no appreciable adverse impact on the health, safety or general welfare of surrounding property owners or the general public.

104-43.6.2 - Mitigation

Any adverse impacts resulting from the administrative adjustment will be mitigated to the maximum practical extent.

104-43.6.3 - Conditions of Approval

In granting an administrative adjustment, the zoning administrator and the city manager may impose conditions upon the subject property that are necessary to reduce or minimize any potentially adverse impacts on other property in the neighborhood and to carry out the stated purposes of the comprehensive plan and this LDC, and may require a restrictive covenant to run with the land, if deemed necessary.

104-43.6.4 - Decision

The decision of the zoning administrator and the city manager shall be accompanied by written findings of fact specifying the reasons for the decision.

104-43.6.5 - Other Factors

The zoning administrator and the city manager may consider any other factors relevant to an administrative adjustment application under state law.

104-43.7 - Notice of Decision

Within seven (7) working days after a final decision on an administrative adjustment, the zoning administrator shall mail notice of the decision to the applicant and all other parties who have made a written request for notification.

104-43.8 - Appeal of Decision

Appeals of an administrative adjustment shall be taken to the board of adjustment and appeal in accordance with *§ 109-20.3.1 Administrative Review.*

104-44 - WRITTEN INTERPRETATIONS

104-44.1 - Purpose

The provisions of this section establish guidelines to follow in clarifying ambiguities that may arise regarding the interpretation of or the application of the city's land development code.

104-44.2 - Authority

Subject to the requirements set forth in this section, the zoning administrator with the concurrence of the city attorney shall render interpretations to any provision of this land development code or any rule or regulation issued pursuant to it.

104-44.3 - Rounding of Numeric Requirements

The application of land development code standards resulting in fractional requirements shall be treated in the manner as listed in *§ 104-44.3.1* through *§ 104-44.3.5*

104-44.3.1 - Off-Street Parking Spaces

The requirement for a fractional space shall be rounded up to the next whole number, resulting in the provision of one full space.

104-44.3.2 - Setbacks

When checking actual on-site measurements, the zoning administrator and building official shall recognize the inherent difficulty in providing for an exact building location and shall permit minor deviations not exceeding twelve (12) inches as long as it has been demonstrated how the error that caused a minor deviation occurred, as long as the building is not greater in size, and as long as the intent of the land development code is met.

104-44.3.3 - Density or Floor Area

Calculations resulting in a fractional unit greater than .5 shall be rounded up to the next whole number.

104-44.3.4 - Height

When checking actual on-site measurements, the zoning administrator and building official shall recognize the inherent difficulty in providing for an exact building height and shall permit minor deviations not exceeding twelve (12) inches as long as it has been demonstrated how the error that caused a minor deviation occurred, and as long as the intent of the land development code is met.

104-44.3.5 - Plant Materials

Calculations resulting in provision of a fractional plant unit shall be rounded up to the next whole number.

104-44.4 - Submission of Request for Interpretation

An individual requesting an interpretation shall submit a written request to the zoning administrator. The written request shall include, at minimum:

(A) The name and address of the individual requesting the interpretation, the owner of the property (if different) and any professional or paid consultants advising the applicant with respect to the proposed development.

(B) Identification of the specific provision to be interpreted.

(C) The facts on the specific situation giving rise to the request for an interpretation.

(D) The interpretation claimed by the applicant to be correct.

(E) In the case of a use interpretation, a complete description of the proposed use and a listing of permitted uses in the applicable zoning district which are most similar to the proposed use.

Before rendering an interpretation, the zoning administrator and the city attorney may request such further facts and information as in their judgment is necessary to permit a meaningful interpretation of the provision question.

104-44.5 - Decision

The zoning administrator and the city attorney, within thirty days of receipt of a complete application for a written interpretation shall review and evaluate the application in light of this LDC, the comprehensive plan, and any other relevant documents; and shall render a written interpretation. A copy of this written interpretation shall be provided to the applicant and shall be filed in the official record of zoning interpretations.

104-44.6 - Official Record

An official record of interpretation shall be kept on file in the planning & development department. The record of interpretations shall be available for public inspection in the planning & development department during normal business hours.

104-44.7 - Appeal of Decision

Appeals of an interpretation shall be taken to the board of adjustment and appeal in accordance with *§ 109-20.3.1 Administrative Review.*

DIVISION 5: - INFRASTRUCTURE

104-50 - AUTHORITY AND JURISDICTION

Pursuant to the provisions of state statutes and pursuant to any other regulations provided by law, the regulations hereinafter contained in this division shall apply to all developments, whether platted or not platted, hereinafter made, of land within the corporate limits, as now or hereinafter established, of the City of Dunedin.

104-50.1 - Purpose

The purpose of this division is to establish procedures and standards for the development and subdivision of land within the city, in an effort to, among other things, ensure proper legal description, identification, monumentation, and recording of real estate boundaries; ensure the orderly layout and appropriate use of the land consistent with the city's comprehensive plan, zoning ordinances and development compatibility; provide safe, convenient, and economic circulation of vehicular and pedestrian traffic; provide suitable building sites which drain properly and are readily accessible; provide for suitable, amenable, well-planned neighborhoods; ensure the installation of approved proposed improvements; and help conserve and protect the physical and economic resources of the city (and its environs), thereby promoting its public safety, health, and general welfare. The review of site plans and plats are legislative and quasi-judicial in nature allowing the city commission discretion to ensure public health, safety and welfare.

104-51 - REVIEW PROCESS

In general and where applicable, plans for the development of land shall proceed along the following steps in the review process:

Step 1 - Design Review

Step 2 - Concurrency Review (see *Chapter 106 - Concurrency*)

Step 3 - Infrastructure/Site Construction Plan Review (see *§ 104-50*)

Step 4 - Infrastructure/Site Construction Permit Issuance

Step 5 - Building Permit(s) for Vertical Construction

Step 6 - Infrastructure/Site Construction Final Inspection and Approval (see *§ 104-50*)

Step 7 - Platting Procedures (see *§ 104-60*)

Step 8 - Recording of Plat (see *§ 104-60*)

104-52 - CITY STANDARDS AND SPECIFICATIONS

The city shall prepare construction standards and specifications of the facilities to be maintained by or provided by the city, which may be amended from time to time as the city deems appropriate.

104-53 - IMPROVEMENTS

104-53.1 - Streets and Sidewalks

The arrangement, character, width, grade and location of all streets and sidewalks within a development shall be considered in relation to existing or planned streets and sidewalks, to topographical conditions, to public convenience and safety, and in appropriate relation to the proposed uses of the land to be served by such streets and sidewalks, and shall be constructed by the developer in accordance with *Chapter 105*, pertaining to development standards. Streetlights, street signs and traffic regulatory devices shall also be provided in accordance with the standards listed in *Chapter 105.*

104-53.2 - Water and Sewer

Potable water, reclaimed water, and sanitary sewage systems within a development shall be provided in accordance with the standard specification of the city, and as permitted by the regulatory agencies.

104-53.3 - Storm Drainage

Construction of the stormwater collection systems within a development and all other appurtenances and facilities of storm drainage systems, including required detention/retention provisions, and necessary off-site conveyances which may be required, shall be in accordance with *Chapter 78* , pertaining to stormwater and floods.

104-53.4 - Utilities to be Located Underground

All utilities within a development, including power and communications lines, must be located underground. For the purpose of this section, surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, street lighting or signal control cabinets, and other associated equipment in an underground system may be placed aboveground at a location acceptable to the city. The developer is responsible for complying with the requirements of this section and shall make all the necessary arrangements as required by the serving utilities for the installation of such facilities.

104-53.5 - Fees and Charges

Various fees and charges, such as filing fees, review fees, inspection fees, street lighting payments, street sign and traffic control payments, payments in lieu of recreation land dedication, and such other fees and charges, as may be adopted from time to time, are payable to the city as required.

104-53.6 - Inspections

For ALL development, all applicable inspection requirements, including, but not necessarily limited to: applicable fees, maintenance guarantee, engineering certification, record drawings, regulatory agency clearances, and bill of sale for personal property located in right-of-way as described in *§ 104-55* et seq., will apply.

104-53.7 - Riparian Developments in Flood Hazard Areas

104-53.7.1 - Approvals Required

Approvals are required from regulatory agencies for most riparian developments. Prior to commencing any riparian dredging or landfill activities, plans and specifications for seawalls, canal waterways, dredging and landfill activities, methods of enhancing tidal flows to prevent stagnation of canals, minimizing adverse effects on the local ecosystem, prepared by a professional engineer registered in the state, shall be approved by applicable regulatory agencies and the city engineer.

104-53.7.2 - Canal Waterways

Canal waterways in the tidal zone, created by dredge and fill, shall have a minimum width of 100 feet measured from seawall to seawall. When boathouses, docks, or mooring pilings are to be permitted in such waterways, the plat shall include plat covenants limiting such projections to half the width. Where a finger projection of land is proposed, the minimum width of the waterways shall be as follows:

Finger Length	Minimum Width
Up to 700 feet	100 feet
700 to 1,400 feet	100 feet, plus 15 feet for each 100-foot unit or fraction thereof over 700 feet
Over 1,400 feet	200 feet

The minimum depth of the unobstructed channel shall be five (5) feet below mean sea level North American Vertical Datum (NAVD), 1988.

104-53.7.3 - Seawalls

Seawalls in the tidal zone shall be required on all dredged waterways and constructed in accordance with *Chapter 105* , pertaining to buildings and building regulations.

104-53.7.4 - Dedications

The city may accept the dedication of dredged canal waterways, but maintenance of such canal waterways shall be the responsibility of abutting property owners.

104-53.7.5 - Certifications

All conditions of mandatory permits or authorizations issued by applicable regulatory agencies shall be met and shall be so certified to by the engineer of record prior to the approval of the final plat by the city.

104-53.7.6 - Construction in flood hazard areas

All residential construction in riparian developments shall be in accordance with *Chapter 78* , pertaining to stormwater and floods, and federal regulations relative to flood control.

104-54 - INFRASTRUCTURE/SITE CONSTRUCTION PLANS

104-54.1 - Submittal of Infrastructure/Site Construction Plans

104-54.1.1 - General

For all development requiring infrastructure/site construction review and approval, the engineer of record shall submit to the Engineering office nine (9) sets of the infrastructure/site construction plans of the development, of which two (2) sets shall be certified by a Florida professional engineer, on standard 24-inch by 36-inch sheets with a standard plan scale of 50 feet or less to one inch (20 feet to the inch is the preferred scale). Subject to the condition cited in *§ 104-54.8* city staff will review the final engineering/construction plans for compliance with the city Code of Ordinances and standards.

104-54.1.2 - Completeness Review

No infrastructure/site construction plan application shall be deemed complete until such time as the applicant has provided all of the information required in *§ 104-54.2 thru 104-54.6* as well as all applicable requirements included on the engineering section's review checklist. An application is deemed incomplete until all required information is received, including any additional information required by staff for review. Current application materials shall be made available in the engineering office.

104-54.1.3 - Fees

Review fees will be as established by resolution of the city commission. Refer to *Appendix C - Fees* for the charge relating to multiple reviews.

104-54.2 - Final Infrastructure / Site Construction Plans

Details of the required improvements to be constructed in accordance with the Code of Ordinances and standards of the city, the final plans shall include, but not be limited to:

(A) Name of proposed project or development.

(B) Date, north point, scale.

(C) Legal description of property including section, township and range.

(D) A boundary survey signed by a Florida registered surveyor.

(E) Names, addresses and phone numbers of owner, surveyor and engineer. If the property involved is owned by a corporation or company, the name and address of its president and secretary shall be shown.

(F) Sketch or map indicating location of development.

(G) Dimensions and boundaries of the tract to be developed.

(H) The location and dimension of existing and proposed property lines, public or private easements, dedicated rights-of-way, street names and watercourses on the tract to be developed and on the land immediately adjoining for a distance of at least 50 feet.

(I) The location of wooded areas, natural features, marshes or other conditions affecting the proposed site plan and on the land immediately adjoining for a distance of at least 50 feet. If such feature is extensive, i.e., lake, wetland area, the full size of such feature and its relationship to subject site plans hall be shown.

(J) The approximate distances to, and the elevation, location and dimensions of, the watercourses, streets, sidewalks and other utilities to which connections are proposed to be make to serve the property.

(K) The identification of the off-site easements or rights-of-way proposed to be utilized or acquired to accommodate the utilities and traffic of the proposed development.

(L) Proposed lots or parcels with dimensions.

(M) Locations of proposed buildings, structures, and similar uses showing setbacks and other pertinent information.

(N) Proposed development schedule, including any phasing.

(O) A general description of the proposed landscaping of areas, including park or recreation area, planter islands and parking areas. Landscaping shall conform with Division 4 pertaining to landscaping.

(P) Names, designations or purposes of all proposed streets, service drives, easements, waterways and beaches.

(Q) Sufficient data to determine readily and reproduce accurately on ground the location and length of every road and service drive. This shall include the radii of all curves.

(R) All internal dimensions accurate to the nearest foot.

(S) A tree survey for all areas of the project to be altered from the predevelopment condition.

(T) Topographic contours of the site, based on a clearly identified established datum (the National Geodetic Vertical Datum (NGVD), 1929 or North American Vertical Datum (NAVD), 1988), with one-foot intervals, extending at least 50 feet beyond the property lines, with elevations noted, with the seasonal high groundwater table in the proposed detention/retention area noted and

any other unique features of the sites effecting the required improvements. (This information shall be provided in plan format)

(U) Roadway systems, showing width of rights-of-way, widths of pavement, centerline radii, connection to existing streets, curbs and gutters. A tabulation of soil boring sample analysis, taken at intervals not in excess of 500 feet, and other data, when required by the City Engineer. (This information shall be provided in plan and profile format)

(V) Sidewalks and bicycle path systems, showing widths and locations, generally one foot from property lines, and other data as may be required by the City Engineer for pedestrian traffic. (This information shall be provided in plan format)

(W) Potable water/fire protection system, showing locations from the property lines on either side of rights-of-way, the size and type of pipe and fittings, the fire hydrants with individual shutoff valves, to be spaced in accordance with city regulations and National Fire Codes. Hydrants shall be supplied from piping not less than six inches in diameter, and the piping connections to existing supply systems shall be shown. Also shown will be the location and sizes of the residential service lines to future individual meter locations, providing for the meter to be installed in the right-of-way clear of sidewalks and driveways. The street-crossing sleeves, and all corporation stops, service lines and curb stops, shall be installed by the developer, with each such tap serving an individual water meter and shall be installed, inspected, flushed, sterilized and hydrostatically pressure-tested when such activities are scheduled for the respective water mains. (This information shall be provided in plan format)

(X) Reclaimed water system, showing locations, to be generally on the opposite side of the street as the potable waterline where possible and practical, size and type of pipe and fittings and service lines to each individual residency with locking curb stops. The method of pipe identification and color to be in accordance with city standards. (This information shall be provided in plan format)

(Y) Sanitary sewer system, showing locations to be generally in the street rights-of-way located in the center of one travel lane; the size and type of piping not less than eight inches in diameter in gravity sections, with lateral (individual tap) locations shown with distances measured from downstream manhole noted on the plans, the location of manholes constructed per city standards; the lift station location, if any, showing a dual pump installation, with each pump rated two and one-half times the average daily flow to the station, to be automatically operated alternately, the size and type of force main and the connection of the proposed sanitary system to the existing sanitary system facilities, and other data as may be required by the City Engineer. All manholes, as designated by the City Engineer, which may be subject to inundation, shall be waterproofed by acceptable sealing devices to minimize inflow of stormwater into the sanitary system through the manhole covers. Such sealing devices shall provide for access into the manhole for maintenance without damage to the device. Manholes of the sanitary sewage system shall be located at all deflections of horizontal alignment of the sewer, and in no case may spacing between manholes exceed 300 feet. (This information shall be provided in plan and profile format)

(Z) If not receiving these utility services from the City of Dunedin, a statement from the servicing utility companies which supply water and/or sewer service indicating that utility service is available for the proposed development.

(AA) Street lighting system showing the location and types of poles and fixtures and meeting city standards (This information shall be provided in plan format).

(BB) Seawalls, dredge and fill plans, with notation of regulatory agency requirements, whether in tidal or upland areas, and such other data as may be required by the City Engineer. (This information shall be provided in plan and profile format)

(CC) Storm drainage system, showing inlets with spacing at the ten-year design storm for the drainage subarea not to exceed 400 feet, junction boxes, culverts, pipe size, type of pipe, inverts, headwalls, detention/retention provisions, and other storm drainage appurtenances and

conveyances, the delineation of the 100-year floodplain, the off-site connection of proposed storm drainage outfall to existing watercourses, the necessary off-site easements required, and such other data as the City Engineer may require in accordance with the city codes and standards. See also *Chapter 78*, pertaining to stormwater regulations. (This information shall be provided in plan and profile format)

(DD) Computations of the storm drainage system, establishing inlet spacing, pipe sizing, inlet/outlet hydrographs of the detention/retention facilities, 100-year flood routing within and through the development, and such other data as the City Engineer may require. See also *chapter 78*, pertaining to stormwater regulations.

(EE) A lot grading plan. Where possible and practical, a lot shall be graded and constructed to its final form in such a manner that normally all surface drainage shall be carried to the street. The grading plan shall show building pad elevations and future finish floor elevations. Adequate swales shall be provided on the lot lines to minimize surface water flows to abutting properties, and lots shall be graded to divert surface water flows away from the structures thereon. All lots are to be brought to final pad elevation before final inspection by the City Engineer. See also *chapter 78*, pertaining to stormwater regulations. (This information shall be provided in plan format)

(FF) A stormwater pollution prevention plan and/or an erosion control plan, as appropriate, is required for new construction activities that will disturb existing soil conditions.

(GG) Typical standard details and drawings for the required improvements of the development.

(HH) Any additional information necessary for the review of the proposed project.

104-54.3 - Parks Division Plan Requirement

A landscape plan shall be provided per *§ 105-42.4 Landscape Plan.*

104-54.4 - Engineer of Record Certification on Design

It shall be the responsibility of the engineer of record to ensure that the project design is in strict compliance with the city regulations and any other applicable ordinances and regulations. The engineer shall certify on the city provided form that the design is in compliance with such regulations and ordinances.

104-54.5 - Regulatory Agency Permits

All required regulatory agency permit applications shall be submitted along with the infrastructure/site construction application. One (1) complete copy of each regulatory agency permit application package in addition to the number of copies required to be submitted to the regulatory agency must be submitted and will be retained for city records. Approved regulatory agency permits are required prior to any construction commencing.

104-54.6 - Performance Guarantee

Prior to final approval of the infrastructure/site construction plans, the developer shall submit to engineering a performance guarantee in the form of an irrevocable letter of credit or cash in an amount equal to 100% of the total cost of any work in the right-of-way, based on an estimate provided by the engineer of record and approved by the city engineer.

104-54.7 - Review of Final Construction / Engineering Plans

The final comments on the infrastructure/site construction plans for a development will be forwarded to the engineer of record by the city, after receiving comments from each of the reviewing city divisions/departments as appropriate. Infrastructure/site construction plans having no activity for six (6) months from date of review comments will expire, unless an extension of time is applied for in writing prior to such lapse and granted by the city. One (1) six month extension will be granted. No further extensions will be granted.

104-54.8 - Approval

Absent other conditions for projects on parcels less than one-half acre in size, the city engineer may accept the project engineer of record affirmations and certifications of compliance with all city code requirements as a sufficient basis for approval of site construction plans.

As soon as the infrastructure/site construction plans are ready for approval, the engineering office will notify the engineer of record the plans are approved, subject to the approval of the plat by the city commission if applicable. After plat approval by the city commission, if applicable, the contractor for the developer shall apply for the infrastructure/site construction permit. Infrastructure/site construction permits having no activity for six (6) months from date of approval will expire, unless an extension of time is applied for in writing prior to such lapse and granted by the city. One (1) six month extension will be granted. No further extensions will be granted.

104-55 - INFRASTRUCTURE/SITE FINAL INSPECTION AND APPROVAL

104-55.1 - Permanent Reference Monuments

As a condition of final inspection of a development by the city, when applicable permanent reference monuments installed in accordance with Chapter 177 F.S. at least four in number and no more than 1,400 feet apart, shall be placed at each corner or change in direction on the boundary of the tract so as to provide definite reference points from which may be located any points, lines or lots set forth on the plat. All points of curvature, points of reverse curvature, points of tangency and at least two points in the exterior of each block shall be permanently marked with such monuments. The location of such points as are inaccessible may be established by ties. All monuments so placed shall be of metal not less than three inches in diameter or square or, if smaller, to be encased in a solid block of concrete not less than four inches in diameter or square, having the reference point marked thereon and 24 inches long. The top of the monument shall be set flush with the finished grade at their respective locations. They shall have their position in reference to each other indicated by distances and angles and not less than two of such monuments shall have their location indicated on the plat in relation to the two nearest geodetic monuments. The position of the monuments shall be indicated on the plat by a small square and shall be marked "permanent reference monument" or the initials "P.R.M." to designate the same. Prior to final acceptance of improvements by the city, the city shall cause the site to be inspected to verify the installation of monuments in accordance with the requirements of this section.

104-55.2 - Permanent Control Points

Also, as a condition of the final inspection of a development by the city, when applicable, P.C.P.s (permanent control points) shall be set at the intersection of the centerline of the right-of-way at the intersection of all streets, at "P.C.s," "P.T.s," "P.R.C.s," and "P.C.C.s," and not more than 1,000 feet apart, on tangent between changes of direction, or along the street right-of-way or block lines at each change in direction, and not more than 1,000 feet apart. Prior to final acceptance of improvements by the

city, the city shall cause the site to be inspected to verify the installation of permanent control points in accordance with the requirements of this section.

104-55.3 - Fees and Charges

104-55.3.1 - Streetlight Fees

As a condition of final inspection, the developer shall be required to pay to the city an amount of money that will produce the required monthly charge on an annual basis, if invested at the then current interest rate applicable to final judgments as set by state statutes. If for any reason, no such interest rate has been established in the state statutes, the interest rate shall be set at six percent. An appropriate sum of money shall be required for each lighting pole or other lighting facility and, when paid to the city, shall become the property of the city. Upon such payment, the developer shall have met the requirements for the installation of streetlights or other illumination devices. If the charge assessed by the electric utility provider on a monthly basis for the light poles or other lighting facilities is amended, the fees shall be amended accordingly and such amendment shall take place automatically, upon the amended schedule charge by the electric utility provider being filed with the city.

104-55.3.2 - Street Name, Traffic Control Sign Fees

As a condition of final inspection, the developer shall be required to pay to the city an amount of money to cover all material and labor costs of such signs which will be installed by the city, in accordance with the standards and specifications prescribed in the Manual of Uniform Traffic Control Devices.

104-55.3.3 - Construction Inspection Fees

As a condition of final inspection, the developer shall pay to the city a fee established by commission resolution for the city's cost for field inspections, quality controls, and confirmation of infrastructure construction, which fee shall be payable at the time final inspection of the development is requested. This fee is in addition to the engineering review fee payable to the city at the time the infrastructure/site construction plans are submitted.

104-55.4 - Maintenance Guarantee

As a condition of final inspection of a development, the developer shall submit to engineering an irrevocable letter of credit or cash deposit in the amount of ten percent of the construction costs of all public infrastructure (streets, potable water, sanitary sewer, reclaimed water system, and stormwater drainage systems), to remedy any defects in the workmanship, material and design of the same, and for repair and maintenance of the same. Such estimate, broken down into individual items, shall be prepared by a professional engineer, registered in the state, and the amount approved by the city. It shall be the responsibility of the entity supplying the maintenance guarantee to notify engineering three months prior to the end of the 18-month period to request inspection of the infrastructure and return or release of the guarantee. No guarantee shall be returned or released until three months' notice has been given and inspection has been made to determine that the infrastructure is free of defects, regardless of whether the 18-month period has elapsed or not.

104-55.5 - Engineer of Record Certification of Construction

It shall be the responsibility of the engineer of record to ensure that the project construction is in strict compliance with the city approved infrastructure/site construction plan and/or development regulations

and any other applicable ordinances and regulations. The engineer of record shall certify on the city provided form that the project has been constructed in compliance with such regulations and ordinances. The engineer of record shall submit this certification to engineering prior to the city performing its final inspection of the development project.

104-55.6 - Regulatory Agency Approvals

A statement of completion/clearance must be obtained from all regulatory agency permits that were required for the development and a copy provided to engineering.

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104-55.7 - Record Drawings

Two sets of record drawings/as-builts along with an electronic file copy (in a format compatible with city systems and software) of the approved completed infrastructure/site improvements to a development, certified by the engineer of record, shall be submitted to engineering, which drawings shall reflect accurately all alterations, additions, deletions and revisions of the approved final infrastructure/site construction plans and be congruent with actual field installations. Each set of record drawings shall have the original signature and seal of the engineer of record. The drawings shall show the design grades struck out and as-built grades and slopes placed thereon, together with actual stationing of laterals measured from the downstream manholes. Ties from property corners or other fixed monuments to as-built lift stations, force mains, water lines, water valves, etc., locations will be required.

104-55.8 - Bill of Sale for Personal Property Located in Public Rights-of-Way

All personal property and improvements located in public rights-of-way or easements shall become the property of the city or servicing utility company upon final acceptance unless such improvements are designated as private and labeled as such on the plat and/or site plans and all future maintenance costs are to be the responsibility of the owner(s) of the development. Improvements include, but are not limited to, water and sanitary sewer lines, valves and appurtenances and all other personal property relative to water and sanitary sewer installation serving the developer's property, including storm sewer lines and appurtenances, curbs, sidewalks, paving improvements to streets, and any and all other improvements located within the public rights-of-way in connection with the project. The owner shall execute a bill of sale to the city or servicing utility company for these improvements as a condition of final inspection.

104-55.9 - Final Inspection

Following the city's receipt of required fees and charges, the submittal of certifications, 18-month maintenance guarantee and record drawings, the installation of all required improvements, the placement of reference monuments as set forth in this development and such other prerequisites as may pertain to the development, upon the engineer of record's request, the city shall order a final inspection of all improvement construction to ensure compliance with all city standards, specifications and applicable regulations, whereupon the city will inform the developer in writing of faults to be corrected, if any, which corrections shall require recertification by the engineer of record. No approval or inspection by the city or any of its agents shall act as a waiver or variance of the engineer of record's responsibility for ensuring compliance with the city's ordinances and applicable regulations.

104-56 - COMPLETION OF IMPROVEMENTS

104-56.1 - Liability

A subdivider shall be held liable to the city commission for the completion of all site improvements required by these regulations until such time as the improvements shall have been actually completed and accepted by the city commission.

104-56.2 - Remedy

If the construction of site improvements has been guaranteed by a form of security described in *§104.54.6 Performance Guarantee* of this division, and such improvements have not been completed and accepted by the city commission within the time period prescribed by these regulations, the city engineer, after written notification has been given to the subdivider, shall take such action as may be required to cause payment to be made to the city of the amounts of money secured by a guarantee of performance. Such amounts of money shall be used by the city to finance the completion of the required improvements. Upon failure of such funds made available or improvement being completed, the city shall place a lien on the property in the amount necessary to complete the improvement. No certificate of occupancy or development approval permit of any kind shall be issued until such funds are made available or improvements are completed. In the event that the amounts of money referred to above are insufficient to finance the completion of the required improvements, the city shall so notify the subdivider in writing and shall require the subdivider either to complete the improvements without delay or to make available to the City of Dunedin the amount of money required to finance their completion.

Should the subdivider fail to do either of the above and such failure is not due to strikes, riots, acts of God, acts of a public enemy, injunction, or other court action, or any other cause similar to those enumerated beyond the subdivider's control, the city engineer shall refer the matter to the city attorney for such action as the he or she may deem appropriate to compel the subdivider to comply with the provisions of the improvement agreement entered into by the subdivider as a condition precedent to the approval of the plat, or to pursue any other remedy that may be available to the city. Until such time as the required site improvements have been completed and accepted by the city, the city engineer shall refuse to accept from such subdivider a performance guarantee under any form that is related to the plat of a development, in which such subdivider has a principal or subsidiary interest. Failure of the city to make a claim on the security does not relieve the owner/developer from timely completion of the required improvements.

104-56.3 - Extensions

This section does not apply if a subdivider is prevented from completing and having accepted by the city such required site improvements within the prescribed time by reason of strikes, riots, acts of God, acts of a public enemy, injunction, or other cause similar to those enumerated which are beyond the subdivider's reasonable control. The subdivider shall be entitled to an extension of time equal to the time of such delay that shall be fixed by written certificate made by the city engineer. No such allowance of time will be made unless claimed by the subdivider and allowed and certified in writing by the city engineer at the end of each period of such delay.

DIVISION 6: - PLATTING

104-60 - GENERAL PLATTING REQUIREMENTS

104-60.1 - Plat Required

All land which is intended to be divided into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land; and includes establishment of new streets and alleys, additions, and re-subdivisions; and, when appropriate to the context, relates to the process of subdividing or to the lands or area subdivided is required to be platted.

104-60.1.1 - General

Except as provided by the regulations of this division, no infrastructure improvements shall be accepted and maintained by the city, nor shall any permit be issued by a representative of the city for the construction of any building or other improvement requiring a permit on any subdivision of land unless a plat thereof has been approved by the city commission and city manager, and has been recorded in the office of the Clerk of the Circuit Court of Pinellas County.

104-6.1.2 - Exceptions

The following shall be subject to appropriate requirements relative to required infrastructure improvements but shall be exempt from the platting procedures as set forth in this division:

(A) The combination or recombination of portions of previously platted lots where no new parcels, or residual parcels, result in lots of less area, width or depth than as required by the respective zoning district.

(B) The sale or exchange of parcels of land between owners of adjoining properties for the purpose of small adjustments in boundaries; provided that additional lots are not thereby created and that the original lots are not reduced below the minimum lot area and dimension requirements of the respective zoning district.

(C) Performance Security Option

1. Applicants may plat prior to the completion of required improvements by posting a performance security in accordance with (C)2 through (C) below.
2. The performance security shall comply with all statutory requirements and shall be in the form acceptable to the City Attorney. Acceptable performance securities are an irrevocable letter of credit from a bank licensed to do business in the State of Florida; a performance bond where the company is duly organized and licensed to issue bonds in the State of Florida; or a certified / cashier's check.
3. The amount of performance security shall be based upon an estimate of completion cost by the engineer of record, shall be subject to verification by the City Engineer, and shall total 110% of the estimate of completion.
4. The effective period of performance security shall not exceed 2 years from the date of approval of the final subdivision plat.
   a. Extension of performance security
      i The applicant may request and the Supervisor of Plats may grant one extension, not to exceed 2 years, for the construction of required improvements, if a new two year performance security is provided to the City.
      ii. The applicant must notify the Supervisor of Plats at least sixty days prior to the expiration of the first performance security
      iii. The City must receive the new performance security within thirty of the expiration of the first performance security.
5. Performance security provided under this section shall be subject to the approval of the City Commission at the time of final subdivision plat approval.
6. The City shall receive payment in full in accordance with the procedure established by law for all required improvements not completed at the term of the performance security.
   a. If after two (2) years following acceptance of the performance bond by the city commission, it is determined by the Supervisor of Plats that the work covered by the bond has not been completed and that the applicant has not requested and received an extension pursuant to this section, the Supervisor of Plats will inform the applicant by certified letter that the permission to construct has expired and that the performance security will be called.
   b. Upon acceptance of required improvements by the City, the applicant shall submit a letter to the Supervisor of Plats requesting the release of the performance security.

104-60.2 - Supervisor of Plats; Endorsement of Approval Necessary

The city manager is designated as supervisor of plats and the written approval of such supervisor of plats shall be endorsed on the plats of all new developments, extensions and revisions of existing developments, within the corporate limits of the city, before such plats shall be entitled to be recorded in the office of the clerk of the circuit court of the county, and before sales of lots or parcels in such developments, extensions or revisions may be made, and before any building whatsoever may be constructed or occupied on any lot or parcel of land in all such developments, extensions or revisions thereof, except as provided in *§ 104-60.1.2* .

104-60.3 - Additional Rules and Regulations

The supervisor of plats is authorized and empowered to make such additional rules and regulations regarding the amount, kind, type and specification of public improvements in proposed developments or extensions or revisions thereof, and in regard to all other prerequisites to the approval of plats and proposed developments, extensions or revisions thereof, as are reasonable and fit and proper from time to time. The supervisor of plats is also authorized to promulgate such forms and other documents and to require the execution thereof, as are necessary and proper in the execution of the provisions of this chapter and the authority under this division.

104-60.4 - Approval of City Commission Necessary

The provisions of section *§ 104-60.2* are in addition to, and not in lieu of, the power and authority of the city commission to regulate development as to the amount, kind, type and specifications of public improvements. Approval of the city commission must be duly voted at a public meeting of the city commission before such plats shall be entitled to be recorded in the office of the clerk of the circuit court of the county, and before sales of lots or parcels in such developments, extensions or revisions thereof, may be made, and before any building whatsoever may be constructed or occupied on any lot or parcel of land in all developments, extensions or revisions, thereof. The review and approval of plats is within the discretionary authority of the city commission and is a legislative and quasi-judicial action.

104-60.5 - Improvements; Guarantee of Accomplishment; Duties of Owners and Developers

Before the plat of any development or any extension or revisions thereof shall be approved by the supervisor of plats or the city commission for recording by the Clerk of the Circuit Court of Pinellas County, and prior to the issuance of any building permits for vertical construction, the developers of such developments, extensions or revisions thereof shall first accomplish, at their expense, the required public and/or private infrastructure improvements in the developments, extensions or revisions thereof.

104-60.6 - Plat

104-60.6.1 - Submission of Prints to City

The developer shall submit to the planning & development department at least four (4) sets of prints of a proposed development, prepared by a Florida registered surveyor and/or Florida registered engineer, as appropriate, in accordance with the provisions of this division. The City shall select an independent Florida registered surveyor to review each new plat presented to the City for conformity with Chapter 177, F.S. The cost of the independent conformity review will be paid by the applicant.

104-60.6.2 - Filing Fee

At the time of submission of a plat of a development, the developer shall pay to the city a filing fee as established by resolution of the city commission.

104-60.6.3 - Completeness Review

No plat application is complete unless all of the information required in the plat review checklist has been submitted. An application is deemed incomplete until all required information is received, including any additional information required by staff for review. Current application materials shall be made available in the planning & development department.

104-60.6.4 - Applicability

A plat is required for any project as defined in § *104-60.1 Plat Required*. The plat should be submitted after completion of the infrastructure as required in Division 5: Infrastructure. See also 104-60.1.2 – Exceptions above.

104-60.6.5 - Content

The plat of a development shall be submitted on a scale not less than 100 feet to the inch, to include the items in the plat checklist provided by engineering and shall also be in compliance with § 177.091 F.S. and 159.13 of the Pinellas County Code of Ordinances.

104-60.6.6 - Processing the Plat

When deviation from the requirements of the city ordinances and regulations occur in the plat for a development without a written explanation by the developer, the city shall issue a written report to the developer setting forth all deviations. The developer shall either incorporate the recommendations contained in the city's report, or specify in writing the reasons for not doing so. If no response is received, the plat will not be processed further and development review processes will cease.

104-60.6.7 - Building Permits Before Recording

Upon written request by the developer, the planning & development director may allow a limited number of building permits to be issued for construction prior to recording the plat for a development. Any such construction will be at the sole risk of the developer.

104-60.6.8 - Construction of Infrastructure Required

No plat of any development shall be recorded in the public records of the county until the developer has acceptably completed all the requirements of this division, including all required infrastructure improvements.

104-60.6.9 - Resolution of Acceptance

Planning & development staff shall prepare a formal resolution of acceptance of the plat for the city commission's approval.

104-60.6.10 - Action by the City Commission

The plat for a development will be presented to the city commission for recommendation. The action(s) of the city commission are legislative and quasi-judicial in nature allowing the city commission discretion to ensure public health, safety and welfare.

104-60.6.11 - Final Approval by the City

Upon completion of the final inspection of a development and with passage of a resolution of acceptance by the city commission, the original drawing of the plat of a development shall be signed by the city clerk. The city clerk will obtain the signatures of the mayor, the city manager and the city attorney on the plat.

104-60.6.12 - Recording Plat in County

After plat approval by the city, the developer shall cause the original copy of the plat to be transmitted to the county clerk of the circuit court, where processing and recording shall be accomplished. If a plat shall fail to be recorded within one month from the date on which the plat has been transmitted to the county clerk of the circuit court, such plat must be resubmitted to the city for reprocessing.

104-60.6.13 - Reproducible Plats to City

Within ten days after the recording of a plat of a development, the developer shall deliver to the city four reproducible copies of the recorded plat showing the plat book and page number assigned to the plat and the verification of the clerk of the circuit court that it has been entered upon the public records of the county.

DIVISION 7: - REVOCATIONS, ENFORCEMENT, VIOLATIONS AND PENALTIES

104-70 - REVOCATION OF A DEVELOPMENT APPROVAL

104-70.1 - Initiation

The director of planning & development shall investigate alleged violations of a development approval. The director of planning & development shall determine whether or not to terminate or suspend a development approval. If the director of planning & development determines that a termination or suspension of a development approval is appropriate, a written finding, including the reason or reasons for the determination shall be documented in writing.

104-70.2 - Grounds for Revocation

The following are grounds for revocation of a development approval:

(A) The intentional provision of materially misleading information by the applicant (the provision of information is considered "intentional" where the applicant was aware of the inaccuracies or could have discovered the inaccuracies with reasonable diligence); and

(B) The failure to comply with any condition of a development approval.

(C) Failure of compliance, lack of necessary permits or approvals of other government agencies having jurisdiction, or lapse of allowable time.

(D) Any other situation or condition which is contrary to the safety or welfare of the public, justifying such revocation in the opinion of the director of planning & development.

104-70.4 - Decision and Notice

The director of planning & development shall prepare a written revocation of development approval. Such revocation of a development approval shall contain findings that address the basis for the decision. The development order shall state the condition or conditions that have been violated and the harm such violation has caused. In the case of a suspension of the use, the revocation shall state the length of time and the manner in which such violation can be cured. In the case of a termination, the revocation shall state the reason such violation cannot be cured.

104-70.5 - Appeals

An aggrieved party may appeal the director of planning & development's decision to the board of adjustment and appeal.

104-70.6 - Right Cumulative

The right to revoke a development approval, as provided in this section, is cumulative to any other remedy allowed by law, specifically including presenting such case before the city's code enforcement board.

104-71 - TYPES OF VIOLATIONS

Any act of commission or omission contrary to the commands or directives of this chapter, or any breach of any duty imposed by this chapter, is a violation of this chapter.

104-72 - CIVIL ENFORCEMENT

104-72.1 - Enforcement Actions

The zoning administrator or any authorized person may institute any appropriate civil action or proceedings to prevent violations or threatened violations of these regulations. In particular, but without limitation, in case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the zoning administrator or any authorized person may institute any appropriate action or proceedings to:

(A) Prevent such unlawful acts and restrain, correct, or abrogate such violation;

(B) Prevent the occupancy of the building, structure, or land; or

(C) Prevent any illegal act, conduct, business, or use in or about such premises, including, but not limited to, all remedies provided in/at law. The imposition of any penalty does not preclude the city commission or any authorized person from instituting any appropriate action or proceedings to require compliance with the provisions of the LDC and with administrative orders and determinations made under the LDC.

104-72.2 - Penalties

The penalty for violating any section or other part of the LDC will be pursuant to the civil penalties prescribed in section 1-15 of the City of Dunedin's Code of Ordinances, and may be referred to the city's code enforcement board. Each day a violation exists constitutes a separate offense.

104-80 TRANSFER OF DEVELOPMENT RIGHTS (TDR)

104-80.1 GENERALLY
This section is to establish a procedure for the transfer of density from one noncontiguous land parcel to another noncontiguous land parcel subject to the requirements of this section.

104-80.2 PURPOSES
The purposes of this ordinance are to:

(A) Preserve open space, scenic views, critical and sensitive areas, and natural hazard areas.
(B) Retain open areas in which healthful outdoor recreation can occur.
(C) Allow flexibility for the redevelopment of the City's commercial corridors and downtown core.
(D) Protect lands and structures of aesthetic, architectural, and historic significance.
(E) Ensure that the owners of preserved, conserved, or protected land may make reasonable use of their property rights by transferring their right to develop to eligible zones.
(F) Provide a mechanism whereby development rights may be reliably transferred.
(G) Ensure that development rights are transferred to properties in areas or districts that have adequate community facilities, including transportation, to accommodate additional development.

104-80.3 AUTHORITY
In accordance with the requirements of F.S. § 163.3171(1), the city hereby declares its intent to exercise all authority under the Local Government Comprehensive Planning and Land Development Regulation Act for the total area under its jurisdiction and any additional area annexed to the city in the future. Furthermore, the city shall, in its planning, establish policies and plans for areas adjacent to the city to be applicable to such areas upon annexation.

104-80.4 RIGHT TO TRANSFER DEVELOPMENT RIGHTS
Transfer of development rights shall be as provided for in the applicable local government comprehensive plan, special area plans, and land development regulations, subject to the following:

(A) The land use characteristics within any given Countywide Plan Map category shall be consistent with those land use characteristics enumerated for each Countywide Plan Map category, and no transfer of development rights shall be permitted which is inconsistent with the use characteristics of a given Countywide Plan Map category.

(B) There shall be no transfer of development rights from existing developed property, irrespective of whether or not that property has been developed to the maximum density/intensity permitted under the Countywide Plan and Countywide Rules, except for preservation of archaeological, historical, environmental, or architectural sites or features or for Leadership in Energy and Environmental Design (LEED) building certification purposes.

(C) Transfer of development rights is permitted between all Countywide Plan Map categories except as follows:

1. There shall be no transfer to the Recreation/Open Space or Preservation categories.

2. There shall be no transfer from the Activity Center (AC), Central Business District (CBD), Community Redevelopment District (CRD) or Planned Redevelopment (PR) categories governed by a special area plan, except as may be provided for in such special area plan.

(D) The maximum permitted density/intensity of the Countywide Plan Map category for any parcel of land to which development rights are transferred shall not exceed twenty-five (25) percent of the otherwise maximum permitted density/intensity allowed for each respective Countywide Plan Map category applicable to such parcel, except as may be otherwise specifically provided for as follows:

1. Within the AC, CBD, CRD and PR categories on the Countywide Plan Map governed by a special area plan, the transfer of development rights and permitted increase in maximum density/intensity as a function of such transfer shall be governed by the provisions of the applicable special area plan.

(E) Any transfer of development rights pursuant to this ordinance authorizes only an increase in maximum density or maximum floor area ratio and shall not alter or waive the development standards of the receiving district, including standards for floodplains, wetlands, and [other environmentally sensitive areas]. Nor shall it allow a use otherwise prohibited in a receiving district.

104-80.5 DETERMINATION OF DEVELOPMENT RIGHTS; TDR CERTIFICATE

(A) Where development rights are transferred from a sending parcel, that property shall only be used in a manner and to the extent specified in the transfer and recording mechanism. Any parcel from which development rights are transferred will be limited to the use and density/intensity that remains after the transfer. In particular:

1. The residual development rights on the sending parcel will be limited to the remnant use and density/intensity available under the Countywide Plan Map category, and not otherwise transferred.

2. Determination of available remnant use and density/intensity for any mixed use, or combination of distinct uses, shall be in accord with the consistency criteria as set forth in Sec. 4.2.3 and 4.2.4 of the Countywide Rules.

3. Neither the use nor density/intensity of a sending parcel shall be double-counted and the transfer of development rights shall not result in any combination of use or density/intensity above that which was otherwise permitted under the applicable Countywide Plan Map category for each the sending and receiving parcels, when taken together.

4. A sending parcel from which all development rights are transferred shall not thereafter be available for use except consistent with the use characteristics and density/intensity standards of the Recreation/Open Space category, except for sending parcels classified as Preservation or required to be classified as Preservation as a function of the transfer, in which case such parcels shall be limited to the use characteristics and density/intensity standards of the Preservation category.

(B) Where all development rights have previously been transferred from a sending parcel through a local government approved or Countywide Plan Map approved process, no additional development rights shall be transferable from that sending parcel.

(C) There shall be no transfer of development rights from or to submerged land, or from outside the coastal high hazard area into the coastal high hazard area.

(D) Where development rights cannot otherwise be determined for the Preservation or Recreation/Open Space category based on local government provisions for transfer of development rights, such categories shall be assigned a maximum density/intensity of one (1) dwelling unit or five (5) percent floor area ratio per acre, or both, as is applicable based on the use characteristics to be utilized in the receiving parcel for any transfer of development rights under the Countywide Plan Map and these Countywide Rules.

(E) Where an entire parcel of property is located in a Preservation or Recreation/Open Space category, and the development rights of such parcel have not been and cannot be transferred, such property shall be permitted a minimum beneficial use subject to the various provisions of these Countywide Rules and the Countywide Plan Map, but private property shall not be taken without due process of law and the payment of just compensation.

104-80.6 ADMINISTRATION

(A) Zoning Administrator responsibilities:

1. Determining, upon application by a transferor, the development rights that may be transferred from a property in a sending district to a property in a receiving district and issuing a transfer of development rights certificate upon application by the transferor.

2. Maintaining permanent records of all certificates issued, deed restrictions and covenants recorded, and development rights retired or otherwise extinguished, and transferred to specific properties.

3. Making available forms on which to apply for a transfer of development rights certificate.

(B) The application shall be part of an application for a development approval. The transfer of development rights application shall contain:

1. A signed written agreement between the applicant and a proposed original transferor, which contains information required by Section 104-80.6 below and in which the proposed transferor agrees to execute an instrument of such rights on the proposed receiving parcel when the use of those rights, as determined by the issuance of a development permit, is finally approved.

2. A certificate of title for the sending parcel prepared by an attorney licensed to practice law in the State of Florida.

3. Two copies of a signed and sealed survey of the proposed sending parcel and a legal description of the sending parcel prepared by licensed land surveyor.

4. A statement of the type and number of development rights in terms of density or FAR being transferred from the sending parcel, and calculations showing their determination.

5. Applicable fees.

6. Such additional information required by the zoning administrator as necessary to determine the number of development rights that qualify for transfer.

(C) A transfer of development rights certificate shall identify:

1. The transferor and the transferee.

2. A legal description of the sending parcel on which the calculation of development rights is based.

3. A statement of the number of development rights in either dwelling units per net acre or square feet of nonresidential floor area eligible for transfer.

4. If only a portion of the total development rights are being transferred from the sending property, a statement of the number of remaining development rights in either dwelling units per net acre or square feet of nonresidential floor space remaining on the sending property.

5. The date of issuance.

6. The signature of the zoning administrator.

7. A certificate number assigned by the zoning administrator.

104-80.7 INSTRUMENT OF TRANSFER

(A) Any project utilizing transfer of development rights shall require the local government having jurisdiction to provide for a recording mechanism, in a form approved by the Countywide Planning Authority, which shall as a minimum, require written evidence of the transfer of development rights in a document to be recorded in the public records with the Clerk of the Circuit Court for Pinellas County, and a record copy of same to be filed with the PPC.

1. An instrument of transfer shall conform to the requirements of this Section and contain the following information.

(a) The names of the transferor and the transferee.

(b) A certificate of title for the rights to be transferred prepared by an attorney licensed to practice law in the State of Florida.

(c) A legal description and plat of the sending parcel prepared by a licensed surveyor named in the instrument;

(d) The transfer of development rights certificate described in Section 104-80.4 above.

(e) A covenant the transferor grants and assigns to the transferee and the transferee's heirs, assigns, and successors, and assigns a specific number of development rights from the sending parcel to the receiving parcel.

(f) A covenant by which the transferor acknowledges that he has no further use or right of use with respect to the development rights being transferred.

(g) A covenant indicating the number of development rights remaining on the sending parcel and stating the sending parcel may not be subdivided or developed to a greater density or intensity than permitted by the remaining development rights.

(h) A covenant that all provisions of the instrument of original transfer shall run with and bind the sending parcel and may be enforced by the City of Dunedin.

(i) Any other relevant information or covenants.

104-81 DENSITY / INTENSITY AVERAGING

104-81.1 GENERALLY

This section is to establish a procedure for the transfer of density from one noncontiguous land parcel to another noncontiguous land parcel subject to the requirements of this section.

104-81.2 PURPOSES

The purposes of this ordinance are to:

(A) Allow flexibility for the redevelopment of the City's commercial corridors and downtown core.
(B) Protect lands and structures of aesthetic, architectural, and historic significance.
(C) Provide a mechanism whereby development rights may be reliably averaged.
(D) Ensure that development rights are averaged between properties in areas or districts that have adequate community facilities, including transportation, to accommodate additional development.

104-81.3 AUTHORITY

In accordance with the requirements of F.S. § 163.3171(1), the city hereby declares its intent to exercise all authority under the Local Government Comprehensive Planning and Land Development Regulation Act for the total area under its jurisdiction and any additional area annexed to the city in the future. Furthermore, the city shall, in its planning, establish policies and plans for areas adjacent to the city to be applicable to such areas upon annexation.

104-81.4 RIGHT TO DENSITY /INTENSITY AVERAGE BETWEEN PARCELS

Density/intensity averaging shall be permitted as provided for in this section.

(A) Density/intensity averaging may occur from any Future Land Use Map (FLUM) category to any other Plan category, except as follows:

1. There shall be no density/intensity averaging to the Preservation or Recreation/Open Space Plan categories.

2. There shall be no density/intensity averaging from the Activity Center (AC), Community Redevelopment District (CRD) or Planned Redevelopment (PR) categories governed by a special area plan, except as may be provided for in such special area plan.

3. There shall be no density/intensity averaging from or to submerged land or from outside the coastal high hazard area into the coastal high hazard area.

(B) Density/intensity averaging may occur only in accordance with the following:

1. Aggregation within contiguous property(ies) in the same Plan category based on the maximum density/intensity allowed in that category.

2. Aggregation within contiguous property(ies) in different Plan categories based on the maximum density/intensity allowed in the combination of applicable categories, provided that the subject area does not exceed a maximum area of five (5) acres.

3. Such aggregation of density/intensity as provided for in either A. or B. above shall require the property(ies) to be subject to a local government site plan or comparable approval process and a written record of the density/intensity averaging recorded in the public record with the Clerk of the Circuit Court for Pinellas County, and a record copy of same filed with the Pinellas Planning Council.

(C) Density/intensity averaging as otherwise governed by these Rules shall be allowed to include any development rights available to, but previously unused by, existing developed property that is being added to or redeveloped using the density/intensity averaging provisions of these Rules.

104-81.5 DETERMINATION OF DEVELOPMENT RIGHTS

(A) Where development rights are averaged between two parcels, the properties shall only be used in a manner and to the extent specified in the recording mechanism.

104-81.6 ADMINISTRATION

(A) Zoning Administrator responsibilities.

1. Maintaining permanent records of all certificates issued, deed restrictions and covenants recorded, and development rights averaged between two contagious parcels.

2. Making available forms on which to apply for density / intensity averaging.

(B) The application shall be part of an application for a development permit. The density / intensity averaging application shall contain.

1. A signed written agreement between the two parcel owners.

2. A certificate of title for each parcel prepared by an attorney licensed to practice law in the State of Florida.

3. Two copies of signed and sealed surveys, including legal descriptions, for the proposed parcels prepared by licensed land surveyor.

4. A statement of the type and number of development rights in terms of density or intensity being averaged.

5. Applicable fees.

6. Such additional information required by the zoning administrator as necessary to determine the number of development rights that qualify for averaging.

(C) A density / intensity averaging certificate shall identify:

1. The two parcel owners.

2. A legal description of the two parcels to be averaged on which the calculation of development rights is based.

3. A statement of the number of development rights in either dwelling units per net acre or square feet of nonresidential floor area eligible for averaging.

4. If only a portion of the total density / intensity available for averaging is used, a statement of the number of remaining development rights in either dwelling units per net acre or square feet of nonresidential floor area remaining on the properties.

5. The date of issuance.

6. The signature of the zoning administrator.

7. A certificate number assigned by the zoning administrator.

104-81.7 INSTRUMENT OF TRANSFER

(A) Any project utilizing density / intensity averaging shall require the local government having jurisdiction to provide for a recording mechanism, in a form approved by the Countywide Planning Authority, which shall as a minimum, require written evidence of the density / intensity averaging in a document to be recorded in the public records with the Clerk of the Circuit Court for Pinellas County, and a record copy of same to be filed with the PPC.

1. An instrument of transfer shall conform to the requirements of this Section and contain the following information.

   (a) The names of the parcel owners.

   (b) A certificate of title for the rights to be averaged prepared by an attorney licensed to practice law in the State of Florida.

   (c) A legal description and survey of the parcels being averaged by a licensed surveyor named in the instrument.

   (d) The density / intensity averaging certificate described in Section 104-81.6(C) above.

   (e) A covenant between the parties, their heirs, assigns, and successors, that assigns a specific number of development rights to be averaged.

   (f) A covenant by which the transferor acknowledges that he has no further use or right of use with respect to the development rights being averaged.

   (g) A covenant indicating the number of development rights remaining on the parcels stating that the parcels may not be subdivided or developed to a greater density or intensity than permitted by the remaining development rights.

   (h) A covenant that all provisions of the instrument of averaging shall run with and bind the parcels and may be enforced by the City of Dunedin.

   (i) Any other relevant information or covenants.

Definitions – Add to Appendix A as needed

Receiving Parcel - means a parcel of land that is the subject of a transfer of development rights, where the owner of the parcel is receiving development rights, directly or by intermediate transfers, from a sending parcel, and on which increased density and/or intensity is allowed by reason of the transfer of development rights;

Sending Parcel - means a parcel of land that is the subject of a transfer of development rights, where the owner of the parcel is conveying development rights of the parcel, and on which those rights so conveyed are extinguished and may not be used by reason of the transfer of development rights; and

Transferee - means the person or legal entity, including a person or legal entity that owns the receiving parcel that purchases the development rights.

Transferor - means the landowner of a sending parcel in a transfer of development rights.

Secondary Front Yard