

Subpart B

LAND DEVELOPMENT REGULATIONS*

* **Editors Note:** Ord. No. 01-02, §§ 1, 2, adopted Feb. 15, 2001, repealed the former subpt. B, chs. 98, 102, 106, 110, 114, 118, 122, 126, and 130, and enacted a new subpt. B as set out herein. The provisions of former subpt. B derived primarily from Ord. No. 92-18, adopted Aug. 27, 1992, and from subsequent amendatory ordinances.

Chapter 98

GENERAL PROVISIONS

- Sec. 98-1. Title and authority.
- Sec. 98-2. Purpose and intent.
- Sec. 98-3. Applicability.
- Sec. 98-4. Exceptions.
- Sec. 98-5. Vested rights for concurrency.
- Sec. 98-6. Expiration of vested rights certificates.
- Sec. 98-7. Relationship to comprehensive plan.
- Sec. 98-8. Rules of interpretation.
- Sec. 98-9. Computation of time specified.
- Sec. 98-10. Delegation of authority.
- Sec. 98-11. Gender, number, and tense.
- Sec. 98-12. Non-technical and technical terms and words.
- Sec. 98-13. Shall and may.
- Sec. 98-14. Boundaries.

Sec. 98-1. Title and authority.

This portion of the City Code of Ordinances shall be known as the Code of Land Development Regulations (LDRs) of the City of Eustis, Florida. These regulations are adopted in accordance with the provisions of F.S. ch. 163 and pursuant to the City of Eustis City Charter.
(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-2. Purpose and intent.

The general purpose of this Code is to establish procedures and standards for the development of land within the corporate boundaries and the planning area of the city, such procedures and standards being formulated in an effort to promote the public health, safety and welfare and enforce and implement the city's comprehensive plan, while permitting the orderly growth and development with the city and Eustis planning area consistent with its small town community character and life style.
(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-3. Applicability.

These regulations are applicable within the corporate limits of the city and shall be used in an advisory capacity throughout the city planning area as identified in the city comprehensive plan. The city planning area is shown on the future land use map adopted and updated as an integral part of the city's comprehensive plan.

Copies of any of the referenced documents are available for public inspection in the division of development services.

(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-4. Exceptions.

These regulations shall be applicable to all development applications except those that are specifically excluded within the content of these regulations or by law.

(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-5. Vested rights for concurrency.

(a) *Vested rights generally.* Pursuant to F.S. § 163.3167(8), nothing in the comprehensive plan shall limit or modify the rights of any person to complete any project that has been authorized as a development of regional impact pursuant to F.S. ch. 380, or who has been issued a final local development order and development has commenced and is continuing in good faith.

(b) *Vested rights certificates.* Any person may request from the city a determination of whether the person's right to complete a project is vested pursuant to these regulations and F.S. § 163.3167(8), notwithstanding the imposition of concurrency requirements. Such request shall be made on application forms as the city may from time to time prescribe, and the request shall be made and shall be reviewed and approved or disapproved in accordance with the procedures described in these regulations.

(c) *Development of regional impact.* Notwithstanding the imposition of concurrency requirements, a development of regional impact shall be entitled to a vested rights certificate if, on or before August 30, 1992, there has been issued for the development of regional impact a binding letter of vested rights, and such rights are still valid and have not expired.

(d) *Florida quality development.* Notwithstanding the imposition of concurrency requirements, a Florida Quality Development shall be entitled to a vested rights certificate if, on or before August 30, 1992, the Florida Quality Development was approved by the state land planning agency pursuant to F.S. § 380.061, and the pertinent development order has not expired.

(e) *Other development orders.* Notwithstanding the imposition of concurrency requirements, a project, which may be other than a development of regional impact or Florida Quality Development, shall be deemed to have been issued a final local development order and to have commenced and to be continuing in good faith for purposes of these regulations and F.S. § 163.3167(8), and therefore to be entitled to a vested rights certificate, if (1) the project otherwise complies with and is allowed to proceed under all city ordinances and regulations and (2) the project meets at least one of the following criteria:

- (1) *Building permit.* Any structure for which a building permit has been issued prior to August 30, 1992, and the building permit has not expired.
- (2) *Final site plan.* A final site plan approved by the city prior to August 27, 1992, for which a building permit for a principle structure has been issued prior to August 26, 1993.

- (3) *Lot approval.* A lot approval approved by the city prior to August 30, 1992, for which a building permit for a principle structure has been issued prior to August 30, 1992.
- (4) *Master park plan.* A master park plan approved by the city prior to August 30, 1992, for which a building permit for a principle structure has been issued prior to August 30, 1992.
- (5) *Planned unit development.* The phases of a planned unit development for which final plats, final site plans, preliminary plats, or preliminary site plans have been approved prior to August 30, 1992.
- (6) *Plat.*
 - a. *Residential.* A final plat recorded on or after March 1, 1980, and prior to August 27, 1992, for which a building permit for a principle structure has been issued prior to August 26, 1993.
 - b. *Nonresidential.* A final plat recorded on or after March 1, 1980, and prior to February 26, 1994.
- (7) *Preliminary master park plan.* A preliminary master park plan approved by the city prior to August 30, 1992, which has not expired.
- (8) *Preliminary plat.* A preliminary plat approved by the city prior to August 30, 1992, which has not expired.
- (9) *Preliminary site plan.* A preliminary site plan approved by the city prior to August 30, 1992, which has not expired.
- (f) *Other projects.*
- (1) Any other project for which there is proof that as of August 30, 1992:
 - a. A development order has been issued or the city has otherwise taken official action specifically with respect to approving the development of the property; and
 - b. Extensive obligations or expenses (other than land purchase costs and payment of taxes) including, but not limited to, legal and professional expenses related directly to the development have been incurred or there has otherwise been a substantial change in position; and
 - c. Such obligations, expenses, and change in position were undertaken by the property owner in good faith reliance on the actions taken by the city; and
 - d. It would be unfair to deny the property owner the opportunity to complete the project based on the project's effects on the levels of service as adopted by the comprehensive policy plan.

- (2) A vested rights certificate issued pursuant to these regulations shall include criteria, standards, thresholds and/or guidelines, as may be specifically applicable to the particular project, to assist in determining whether and when the project is no longer "continuing in good faith".
- (g) *Subsequent approval; ability to make application.*
- (1) *Intent.* It is the intent of the city to recognize that in those circumstances listed below, a project which commenced before but ultimately received city approval after August 30, 1992, may apply for vested rights certificate.
- (2) *Project denials.*
 - a. If a project under normal circumstances would have been granted approval by August 30, 1992, except for a denial issued by the city; and
 - b. The denial of the project is appealed; and
 - c. Ultimately the denial is reversed and the requested permit or process is approved after August 30, 1992, then the project shall be entitled to apply for a vested rights certificate as if the approval had been granted before August 30, 1992.

The criteria for obtaining a vested rights certificate set forth in any particular section of these regulations are not mutually exclusive. Therefore, a development may make application under more than one theory. For example, if a project obtains a vested rights certificate pursuant to these regulations and the vested rights certificate expires pursuant to these regulations, then the project may submit an application for a new vested rights certificate under these regulations.

(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-6. Expiration of vested rights certificates.

(a) *General.* The purpose of this section is only to specify the circumstances under which a person may undertake or continue the development of land despite the effect of the project, in whole or in part, on the levels of services as adopted by the comprehensive plan. Nothing in this section shall act to create rights that otherwise do not exist. Consequently, other than as provided for in these regulations, upon the expiration of any development order or permit or approval that serves as the predicate for the property owner's right under these regulations to develop, the rights granted under these regulations shall likewise expire.

(b) *Building permits.* A vested rights certificate issued pursuant to these regulations shall expire upon the earlier of either the expiration of the building permit or August 30, 1992.

(c) *Final site plan.* A vested rights certificate issued pursuant to these regulations shall expire upon the earlier of either the expiration of the building permit for a principle structure or September 27, 1993, if a certificate of completion is not obtained prior to or on September 27, 1993.

(d) *Florida quality developments.* A vested rights certificate issued for a Florida Quality

Development pursuant to these regulations shall expire upon the termination or expiration of the development order.

(e) *Lot approvals.* A vested rights certificate issued pursuant to these regulations shall expire upon the earlier of either the expiration of the building permit for a principle structure or on August 30, 1993, if a certificate of occupancy is not obtained prior to or on August 30, 1993.

(f) *Master park plan.* A vested rights certificate issued pursuant to these regulations shall expire upon the earlier of either the expiration of the building permit for a principle structure or on August 30, 1993, if a certificate of occupancy is not obtained prior to or on August 30, 1993.

(g) *Other projects.* A vested rights certificate issued pursuant to these regulations shall expire if and when such project ceases to be "continuing in good faith".

(h) *Plats.*

(1) *Residential.* A vested rights certificate issued pursuant to these regulations shall expire on September 1, 1993, if final approval and acceptance by the city of public improvements to the development has not been obtained prior to or on August 30, 1993.

(2) *Nonresidential.* A vested rights certificate issued pursuant to these regulations shall expire if the project does not commence construction on at least one principle structure prior to August 30, 1996, and thereafter the project shall maintain a rate of construction equal, on the average as calculated prospectively from August 1, 1996, to commencement of and good faith efforts toward completion of at least one principle structure on a distinct parcel within the platted subdivision, or phase thereof, every two years.

(i) *Preliminary master park plans.* A vested rights certificate issued pursuant to these regulations shall expire on August 30, 1993, unless the infrastructure has been completed and a certificate of occupancy for at least one principle structure has been issued by the city prior to or on August 30, 1993.

(j) *Preliminary plats.*

(1) *Residential.* A vested rights certificate issued pursuant to these regulations shall expire on August 30, 1993, unless the plat has been approved and recorded prior to or on August 30, 1993, and either:

a. The infrastructure has been completed and a certificate of completion has been issued by the city prior to or on August 30, 1993; or

b. A developer's agreement has been executed with the city providing at a minimum financial security for the implementation of the infrastructure within one year from the date of platting.

(2) *Nonresidential.*

- a. A vested rights certificate issued pursuant to these regulations shall expire on August 30, 1994, unless the plat has been approved and recorded prior to or on August 30, 1994, and the infrastructure has been completed and a certificate of completion has been issued by the city prior to or on August 30, 1994; or
- b. A vested rights certificate for a plat recorded pursuant to these regulations shall expire if the project does not maintain a rate of construction equal, on the average calculated prospectively from the date of recording of the plat in the Lake County Official Public Records, to commencement of and good faith efforts toward completion of at least one principle structure on a distinct parcel within the platted subdivision, or phase thereof, every two years.

(k) *Preliminary site plan.* A vested rights certificate issued pursuant to these regulations shall expire on August 30, 1993, unless the infrastructure has been completed and a certificate of completion for at least one principle structure has been issued by the city prior to or on August 1, 1993.

(l) *Required compliance with laws, ordinances, etc.* Any project which is granted a vested rights certificate from the concurrency requirements is not in any way exempt or vested from other regulations or conditions of approval as may be applicable to the project. Any project which is granted a vested rights certificate shall continue to be subject in all respects to all other non-concurrency laws, ordinances, rules, and regulations and shall continue to be subject to all terms, conditions, requirements and restrictions contained in any development order or permit or approval or binding letter of vested rights pertaining to the particular project.

(m) *Substantial change or deviation.* Notwithstanding these regulations, additional impacts generated by any substantial change or substantial deviation from the terms of the development order upon which a vested rights certificate was predicated shall be subject to concurrency.
(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-7. Relationship to comprehensive plan.

It is the intention of the city commission of the city, and the city local planning agency, that this Code serve to implement the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3202, which statute requires the adoption of Land Development (DCA), rule 9J-24, Florida Administrative Code (FAC). These regulations specifically address the following provisions of this rule:

- (1) The subdivision of land, including provisions that meet the statutory requirements of F.S. ch. 177, pt. I, including review procedures, design and development standards, provisions for adequate public facilities, mitigation of development impacts, land dedications, fee and administrative provisions.
- (2) The regulation of the use of land and water for the land use categories included within the city comprehensive plan and implemented through the city land use map and these land development regulations.
- (3) Protection of the available potable water supply sources through the control of land uses and

activities within the identified cones of influence and general areas of influence for the city potable water wells and well fields.

- (4) Regulation of areas subject to seasonal and periodic flooding and the provision of drainage and stormwater management through the control of the type, location, density and intensity of land uses located within these areas.
- (5) The protection of environmentally sensitive areas designated in the comprehensive plan, particularly the wetlands areas identified in the conservation land use category.
- (6) The regulation of signage.
- (7) The provision of public facilities and services concurrent with the impacts of development based on the adopted levels of service for each of the facilities and services contained within the city's adopted comprehensive plan.
- (8) The provision of safe, convenient and integrated on-site traffic flow which considers the need for vehicle parking and pedestrian movement.
- (9) The implementation of the regulations specifically stated in the adopted goals, objectives and policies of the city comprehensive plan.
- (10) Implementation of performance standards.
- (11) Implementation of impact fees, developer exactions, open space, park dedication requirements, redevelopment district, stormwater management, utility and associated fees.

(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-8. Rules of interpretation.

- (a) *General rules.*
 - (1) In the interpretation of these regulations, the following rules shall be observed unless such construction would be inconsistent with the comprehensive plan, or with the stated intent and purpose of these regulations, or where the language of any section of these regulations contains any express provisions excluding such construction, or where the subject matter or context of such section is determined by the city commission to be repugnant thereto.
 - (2) All provisions, terms, phrases and expressions contained in these regulations shall be liberally construed to follow the goals, objectives and policies of the city's comprehensive plan and in order that the intent and meaning of the city's comprehensive plan may be fully carried out. No provision of this Code shall be interpreted so as to limit or repeal any other powers granted to the city under state statutes.
 - (3) In the interpretation and application of these regulations, it shall be held to be the minimum requirement adopted for the promotion of the public health, safety, comfort, convenience and

general welfare. Where any provision of these regulations imposes a greater restriction upon the subject matter than a general provision imposed by another provision of these regulations, the provision imposing the greater restriction of regulation shall be deemed to be controlling.

(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-9. Computation of time specified.

The time within which an act is specified to be completed shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday or legal holiday recognized officially by the city commission of the city, that day shall be excluded.

(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-10. Delegation of authority.

Whenever a provision appears requiring the city manager or the head of a department or some other city officer or employee to perform a certain function, it is to be construed to authorize delegation of that function to qualified subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-11. Gender, number, and tense.

Words importing the masculine gender shall be construed to include the feminine and neuter. A word imparting the singular number may extend and be applied to several persons and things as well as to one person and thing. The use of the plural number shall be deemed to include any single person or thing. Words used in the past or present tense include the future as well as the past or present.

(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-12. Non-technical and technical terms and words.

Words or phrases shall be construed according to the common and approved usage of the English language. However, technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-13. Shall and may.

The word "shall" is mandatory, and the word "may" is permissive.

(Ord. No. 01-02, § 2, 2-15-01)

Sec. 98-14. Boundaries.

Where a map is incorporated into this Code and used in connection with its administration boundaries on such map which are shown as approximately following a street, utility line, railroad, river or stream, or other similar linear feature, it shall be construed as following the center line of that feature. Boundaries which are shown as following, or approximately following, any platted lot line or other property line or section line,

half-section line or quarter-section lines, shall be construed as following that line.
(Ord. No. 01-02, § 2, 2-15-01)