

## **VILLAGE OF INDIANTOWN - Land Development Regulations**

### **Chapter X**

#### **ARTICLE 12 – DEVELOPMENT REVIEW AND PROCEDURES**

##### **Sec. 12-1. – Purpose.**

This article sets forth requirements for the submittal and review of applications.

##### **Sec. 12-2. – General Requirements for Applications.**

Applications required under this article must be submitted in a form and in such numbers as specified below. Application forms and checklists of required submittal information are available from the Department of Community and Economic Development.

- (1) Pre-Application Meeting. A pre-application meeting is required prior to all formal development applications requiring a hearing. The intent of this meeting is to provide the applicant with review procedures, submittal requirements, development standards and other pertinent matters regarding the site, the proposed use and the overall development so the applicant is prepared to submit the formal development application and informed of potential challenges. Staff opinions presented during a pre-application meeting are informational only and do not represent a commitment of the staff, the Village Council, or any other office or agency of the Village regarding the acceptability of the development proposal. Failure to identify any requirement or procedure at a pre-application meeting shall neither relieve the applicant from having to comply with the requirement or procedure, nor constitute a waiver of the requirement or procedure.
- (2) Application Filing Fee. Applications must be accompanied by the fee that has been established by the Village Council. Fees are not required with applications initiated by the Village Council or an advisory board of the Village. Unless otherwise expressly stated in this article, application fees are nonrefundable.
- (3) Application Completeness and Accuracy. An application will be considered complete by the department if it is submitted in the required form, with the specified number of copies, includes all mandatory information, is accompanied by the applicable fee and all information material to the application is accurate. This provision does not preclude the identification and correction of information submitted by the applicant after an application is accepted.
- (4) Acceptance for Processing. Determination of application completeness shall be made by the Department within 20 business days of application filing. If an application is determined to be incomplete, the Department shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. The

deficiencies must be addressed by the applicant in writing within 30 calendar days of the date of the deficiency notice provided by the Village. If these deficiencies are not addressed, the application shall be considered withdrawn. The director shall provide in writing to the applicant that the application is either complete or withdrawn.

- (5) Burden of Proof. In all cases, the applicant shall have the burden of establishing that an application complies with applicable approval criteria. Approval of an application shall not create any nonconforming circumstances.
- (6) Official Review. In conducting required reviews, the department shall be authorized to distribute the application and any associated submittals to other departments and agencies for the purpose of soliciting comments and ensuring that the proposal complies with all applicable standards and requirements.
  - a. Prior to holding a public hearing on any item requiring Planning, Zoning and Appeals Board review, the Village Council shall not act until it has received the findings of the Board.
- (7) Development Order Modification. After a final development order has been issued it shall be unlawful to change, modify, alter or otherwise deviate from the terms or conditions of the permit without first obtaining a modification to the development order. A written record of the modification shall be made a part of the original final development order and maintained in the files of the Village.
- (8) Cost Recovery. To the extent that any application for review by the Village under these LDRs or, except as otherwise specified below, other Village Code provisions which require review by Village staff, the actual full costs for such review by Village contractors, agents or consultants, shall be passed on to the applicant. Costs for the Village Attorney and any outside contractors, agents or consultants of the Village shall be charged to the applicant in an amount equal to the actual or apportioned cost charged to the Village.
  - a. Fees charged to process building permits and other development applications on behalf of the Village shall not be affected by this section.
  - b. Unless prohibited by law, in circumstances in which the Village prepares closing papers, deeds or other documents in conjunction with Village programs such as in-fill lot housing or other housing measures, or for other matters in which the Village holds a lien and is requested to subordinate its position; and, in cases where the Village prepares loan documents, liens, mortgage papers, subordination documents and other such documents in conjunction with or resulting from Village loan and economic development programs, the Village shall charge the applicant a reasonable fee as determined by the Village Manager in an amount equal to the actual full costs to the Village for the preparation of such documents.

- (9) Commencement of Development. Site improvements shall be developed prior to or concurrent with the commencement of construction. Improvements include but are not limited to: road and drainage improvements, excavation, grading and leveling, installation of utilities and other infrastructure.

A site plan shall be valid only if a master building permit for a principal building has been issued or, where a building permit is not required, construction has commenced following a preconstruction meeting with the Village within one year of the administrative or Village Council approval of said site plan, whichever is applicable. For good cause shown, an applicant may apply for an extension of time prior to the expiration of the 1-year period. Such extension of time shall be granted administratively and shall not exceed six (6) months. A maximum of two (2) extensions may be granted.

If development is proposed in phases, a phasing plan shall be required, and subsequent phases shall commence within one (1) year after the completion of the previous phase. For good cause shown, an applicant may apply for an extension of time prior to the expiration of the 1-year period for the initial phase and each subsequent phase. Such extension of time shall be granted administratively and shall not exceed six (6) months. A maximum of two (2) extensions may be granted.

- a. If subsequent phases are not commenced within the 1-year period, or an extension received, the approval shall be null and void and reapplication to the Village shall be required for the remaining phases. Phases may be developed out of sequence if good cause is shown and it is not to the detriment of the preceding phase(s).

- (10) Advertising and Notice Requirements. Upon determination of a complete application, the Village shall set a date, time and place for public hearing(s) and publish notice of such hearing(s) in the following manner. Each notice involving real property shall adequately describe the property along with the intent and purpose for the application and where additional information on the matter may be obtained.

- a. Advertising requirements. The Village shall prepare and provide notification of a public hearing on an application which shall be published in a newspaper having general circulation in the Village. Where a published notice is required the timing, size and format shall comply with the provisions set forth in Section 166.041- Procedures for adoption of ordinances and resolutions, Florida Statutes.

The Town shall advertise in accordance with the provisions set forth below:

<u>Development Application and Type of Meeting</u>	<u>Type of Advertisement Required</u>
Comprehensive Plan (Growth Management Plan) Amendments	As required by state law for the Village Council Meeting.
Rezoning	As required by state law for the Village Council Meeting.
Any other development application not mentioned above which requires a public hearing	An advertisement shall be published in the non-legal section of a local newspaper selected by the Village at least seven (7) calendar days before the Village Council public hearing.
Local Planning Agency (LPA)	As required by state law for the LPA Meeting.
Administrative Variance	An advertisement shall be published in the non-legal section of a local newspaper selected by the Village at least ten (10) calendar days after the director's decision.

b. Posted notice.

1. A sign shall be prepared and posted on the subject property by the Village setting forth a notice of public hearing at least five (5) business days before

the Village Council meeting in which the item is scheduled to be heard. This notice shall remain posted on the subject property through the date of the public hearing and shall be removed within five (5) business days following the Village Council's approval or denial of the application, or upon the application's withdrawal.

2. Posted notice shall be in a manner established by the director.

c. Courtesy mailed notice.

1. The applicant shall be responsible for mailing notice of hearing to property owners of record within a 300-foot radius of the subject property scheduled for a public hearing before the Village Council. The failure to mail or receive such courtesy notice shall not affect any action or proceedings taken by the Village Council.
2. The current ad valorem tax rolls of Martin County shall be used to mail required notice to owners of neighboring property.

d. Notice content. Required public notice shall, at a minimum:

1. Identify the application.
2. Describe the nature and scope of the proposed development or action.
3. Identify the location of land subject to the application (not applicable to notices posted on the subject property).
4. Identify the date, time and location of the public hearing(s) being noticed.
5. Indicate how and where written comments on the application may be submitted before the hearing.
6. Indicate how and where additional information about the application and review process may be obtained.
7. Comply with any other notice content requirements established by State law.

e. Affidavit of notice. The applicant shall sign an affidavit affirming that any required mailing was sent. Affidavit of published and posted notices of a public hearing shall be completed by appropriate Village staff.

f. Cost of notices. The applicant shall be responsible for all costs associated with providing notices.

(11) Withdrawal of Development Applications and Refund of Fees.

An application for development review may be withdrawn at any time. For applications filed in accordance with these LDRs and subsequently withdrawn, the applicant may request a fee refund. The refund request must be made on a form provided by the Village. The amount of refund will be based on the point in time of the review process when the application withdrawal is initiated by the applicant. The refund schedule is as follows:

- a. 75 percent prior to staff review or legal advertisement (whichever comes first).
- b. 25 percent prior to drafting of the staff report.
- c. 15 percent 10 business days prior to the Village Council hearing on the application.
- d. No refund shall be granted if an applicant withdraws the application at the Village Council meeting in which the application is scheduled to be heard.

(12) Request for Waivers/Modifications of Submittal Requirements. Any submittal requirements which are unnecessary for the review of the application, may be waived by the department director. The applicant must clearly indicate by section and paragraph in the application and in a letter attached to the application, which waiver or modification is requested. To grant a waiver or modification the department must determine that a requirement is not necessary for the full and adequate consideration of the application. The department shall set forth in writing the reasons for such determination.

(13) Re-Application. If a development application is denied by the Village Council on its merits, no application substantially requesting the same relief with respect to all or part of the same property shall be considered by the Village within one (1) year after the date of such denial. This re-application requirement may be waived by a majority vote of the Village Council. The director shall determine whether the re-application is substantially requesting the same relief.

#### **Sec. 12-3. – Annexation Applications.**

For any annexation proposed by either the Village or owner(s) of real property in an unincorporated area which is contiguous to the Village the process and procedures found in Chapter 171, F.S. – Local Government Boundaries Part 1 – Municipal Annexation or Contraction shall apply.

#### **Sec. 12-4. – Comprehensive Plan Text and Map Amendments.**

Comprehensive Plan amendments may be considered in accordance with Florida Statutes and with the following regulations and procedures.

- (1) Initiation of Application. Amendments to the Village's Comprehensive Plan may be initiated by the majority vote of the Village Council, motion of the majority vote of the LPA, motion of the majority of the Planning, Zoning and Appeals Board, Village administration, petition of the property owner or owner's agent, or contract purchaser with the owner's written consent, which is the subject of a proposed amendment.
- (2) Application Filing. Amendment applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form must be

completed and signed by the Village Manager or designee, by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be forwarded to all appropriate reviewing agencies for comment.

(3) Submittal Requirements. All amendment applications shall be accompanied by the following items:

- a. An application, on a form provided by the Village, completed and signed by the Village, applicant, the owner or owner's agent or contract purchaser with the owner's written consent.
- b. When the proposal is an amendment to the Comprehensive Plan text or map series the applicant shall submit data in support of the request. A text amendment shall be submitted in a strikethrough and underline format.
- c. A disclosure statement by the parties with at least five (5) percent interest in the project signed by the applicant and notarized. The applicant, owner or owner's agent or contract purchaser with the owner's written consent, shall keep all information current during the processing of the application.
- d. A map amendment shall include a survey, signed and sealed by a certified surveyor and mapper, completed not longer than six (6) months in advance of the date of the application, that contains the following information:
  1. Boundaries of the entire property, with bearings and distances of the perimeter property lines and of each existing and proposed future land use designation.
  2. Total area of the property and of each existing and proposed future land use designation presented in square feet and acres.
  3. Scale and north arrow, with north, to the extent feasible, oriented to the top of the map.
  4. Location of all existing buildings and structures.
  5. Names of all boundary roads or streets and the width of existing rights-of-way.

(4) Procedure.

- a. Applications shall be received by the Village in a form set by the Village and made available to all applicants.
- b. The Department shall review all submitted applications for Comprehensive Plan amendments and shall prepare a comprehensive written recommendation.
- c. The Planning, Zoning and Appeals Board shall hold a public hearing to consider applications for amendments to the Comprehensive Plan and

shall, upon conclusion of the public hearing, make a recommendation to the LPA with respect to each application.

- d. The LPA shall hold a public hearing to consider applications for amendments to the Comprehensive Plan and shall, upon conclusion of the public hearing, make a recommendation to the Village Council with respect to each application.
- e. The Village Council shall hold public hearing(s) to consider the adoption of the amendments to the Comprehensive Plan requested by the applications in accordance with the provisions of Sec. 163.3184 or 163.3187, Fla. Stat., as applicable.
- f. Proposed amendments shall be transmitted to the Department of Economic Opportunity, its successor, and other review agencies for review and comment.

**Sec. 12-5. – Land Development Regulations Text Amendments.**

Text amendments to this Chapter, may be considered in accordance with the following regulations and procedures.

(1) Initiation of Application. Amendments to the Land Development Regulations may be initiated by the majority vote of the Village Council, motion of the majority vote of the LPA, motion of the majority of the Planning, Zoning and Appeals Board, Village administration, petition of the property owner or owner's agent, or contract purchaser with the owner's written consent, which is the subject of a proposed amendment.

(2) Application Filing. Amendment applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form must be completed and signed by the Village Manager or designee, by the owner or owner's agent, or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be forwarded to all appropriate reviewing agencies for comment.

(3) Submittal Requirements. All amendment applications shall be accompanied by the following items:

- a. An application, on a form provided by the Village, completed and signed by the Village, applicant, the owner or owner's agent or contract purchaser with the owner's written consent.
- b. When the proposal is an amendment to the LDR text data shall be submitted in support of the request. A text amendment shall be submitted in a strikethrough and underline format.
- c. A statement explaining the reason for the text amendment.



(4) Procedure.

- a. Applications shall be received by the Village in a form set by the Village and made available to all applicants.
- b. The department shall review all submitted applications for LDR amendments and shall prepare a comprehensive written recommendation.
- c. The Planning, Zoning and Appeals Board shall hold a public hearing to consider applications for amendments to the LDRs and shall, upon conclusion of the public hearing, make a recommendation to the LPA with respect to each application.
- d. The LPA shall hold a public hearing to consider applications for amendments to the LDRs and shall, upon conclusion of the public hearing, make a recommendation to the Village Council with respect to each application.
- e. The Village Council shall hold public hearing(s) to consider the recommendations of the LPA with respect to applications for amendments to the LDRs requested by the applicant in accordance with the applicable provisions of Sec. 166.041, Fla. Stat. and shall, upon conclusion of the public hearing(s), adopt an ordinance expressing an intent to adopt those proposed amendments to the LDRs or may choose to deny the request and make no modifications to the ordinance.

**Sec. 12-6. – Rezoning.**

The Village Council may rezone a property in accordance with the following regulations and procedures.

(1) Initiation of Application. A rezoning may be initiated by the majority vote of the Village Council, motion of the majority vote of the LPA, motion of the majority of the Planning, Zoning and Appeals Board, Village administration, petition of the property owner or owner's agent or contract purchaser with the owner's written consent, which is the subject of a proposed amendment.

(2) Application Filing. Rezoning applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form must be completed and signed by the Village Manager or designee, by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be forwarded to all appropriate reviewing agencies for comment.

(3) Submittal Requirements. All rezoning applications shall be accompanied by the following items:

- a. An application, on a form provided by the Village, completed and signed by the Village, applicant, the owner or owner's agent or contract purchaser with the owner's written consent.
- b. A disclosure statement by the parties with at least five (5) percent interest in the project signed by the applicant and notarized. The applicant, owner or owner's agent or contract purchaser with the owner's written consent, shall keep all information current during the processing of the application.
- c. An as-built survey, signed and sealed by a certified surveyor and mapper, completed not longer than 6 months in advance of the date of the application, that contains the following information:
  1. Boundaries of the entire area proposed to be rezoned and the existing and proposed zoning districts.
  2. Total area proposed to be rezoned in both square feet and acres.
  3. Scale and north arrow, with north, to the extent feasible, oriented to the top of the map.
  4. Location of all existing buildings and structures.
  5. Names of all boundary roads or streets and the width of existing rights-of-way.

(4) Procedure.

- a. Applications shall be received by the Village in a form set by the Village and made available to all applicants.
- b. The Department shall review all submitted applications for rezoning and shall prepare a comprehensive written recommendation.
- c. The Planning, Zoning and Appeals Board shall hold a public hearing to consider applications for rezoning and shall, upon conclusion of the public hearing, make a recommendation to the LPA with respect to each application.
- d. The LPA shall hold a public hearing to consider applications for rezoning and shall, upon conclusion of the public hearing, make a recommendation to the Village Council with respect to each application.
- e. The Village Council shall hold public hearing(s) to consider the recommendations of the LPA with respect to applications for rezoning in accordance with the applicable provisions of Sec. 166.041, Fla. Stat. and shall, upon conclusion of the public hearing(s), adopt an ordinance granting the proposed rezoning or may choose to deny the request.

- (5) Approval Criteria. The Village Council shall use the following criteria in making their decision regarding approval or disapproval of a rezoning application:
- a. The proposed rezone is consistent with goals, objectives and policies of the Comprehensive Plan.
  - b. The proposed zoning district is compatible with the surrounding area's zoning designation(s) and existing uses.
  - c. The subject property is physically suitable for the uses permitted in the proposed district.

**Sec. 12-7. – Platting and Right-of-Way.**

Applications for subdivision review, including waivers, dedications and vacations of right-of-way shall require the submission of a subdivision (plat) application package in accordance with the following regulations and procedures.

For the purposes of these LDRs "subdivision" shall mean: The division or platting of land into three or more lots, tracts or parcels for the purpose of sale or lease, the subdivision of new streets and alleys, whether public or private, changes in an existing street or alley, whether public or private, additions and re-subdivisions of any parcel whether divided or platted.

Any person, proposing a subdivision of real property in the Village shall first obtain plat approval in accordance with the requirements of this article unless specifically exempted. In addition to this article the requirements of Chapter 177, Florida Statutes and Chapter 61G17-6, Florida Administrative Code shall be followed, and no subdivision plat shall be approved for recording until the requirements of this article, Chapter 177 and Chapter 61G17-6 have been met. No building permit shall be issued prior to the completion of a subdivision, unless exempted.

- (1) Exemptions. Subdivision or right-of-way approval by the Village Council, after a public hearing, shall be required for all applications within the Village, except for the following:
- a. Where the land to be subdivided is to be divided into no more than two (2) parcels.
  - b. Where the division or redivision of a parcel of land is made pursuant to an order of a court of competent jurisdiction.
  - c. Where there is a conveyance between adjacent landowners if the purpose of the conveyance is to adjust or settle a common boundary line and it is stated in the deed of conveyance or in a separate instrument recorded in the public records of Martin County.

- d. Where there is a public dedication of a road, highway, street, alley, or easement and It is found by the Village Council that in these circumstances it is not necessary that a plat be recorded. In lieu of the recording of a plat, the dedication may be by deed, and may require conditions as deemed appropriate under particular circumstances such as improvements of sidewalks, streets, or drainage facilities. The posting of a bond or irrevocable letter of credit may also be required.
- e. Where there is a conveyance to any Federal, state or local governmental entity or agency for a bona fide public purpose and such conveyance is accepted by such governmental entity or agency by an instrument recorded in the public records of Martin County.
- f. Where there is a division or redivision of a parcel of land, greater than 20 acres in size, for bona fide agricultural use, if no public street is created or changed.

(2) Initiation of Application. A subdivision or right-of-way review may be initiated by petition of the property owner or owner's agent or contract purchaser with the owner's written consent.

(3) Application Filing. Subdivision or right-of-way review applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form provided by the Village must be completed and signed by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be forwarded to the Development Review Staff, acting in its capacity as Plat Committee, and all appropriate reviewing agencies for comment.

The application shall be accompanied by a disclosure statement by the parties with at least five (5) percent interest in the project signed by the applicant and notarized. The applicant, owner or owner's agent or contract purchaser with the owner's written consent, shall keep all information current during the processing of the application.

(4) Submittal Requirements. All subdivision or right-of-way review applications shall be accompanied by the following items, as deemed necessary by the Village Surveyor and Mapper:

- a. Each plat must be prepared on 24-inch by 36-inch sheets of material in conformity with F.S. Chapter 177 and must contain a three-inch margin on the left side of the plat for binding purposes. The remaining three (3) sides must have a one-inch margin.
- b. The plat must be prepared under the responsible direction and supervision of a surveyor and mapper, and be clearly and legibly drawn with black permanent drawing ink or varitype process, to a scale of not smaller than

one inch equals 100 feet, unless the Village Surveyor and Mapper issues prior written approval of a smaller scale, based upon good cause shown.

- c. All text and numerical data on the plat must be a minimum of one-tenth inch in height, including lower case letters.
- d. The first page of the plat must contain a vicinity sketch illustrating the subdivision location in reference to any major roadways and adjoining properties. Plats with greater than two (2) sheets of map information must provide a key map detail on each sheet showing the relationship of each sheet to the total plat. Each sheet of a plat must be numbered in the lower right-hand corner as "Sheet \_ of \_" (sheet number out of the total number of sheets). Clearly labeled match lines are required on all multiple-sheet plats. Surveyor's notes and a legend must appear on all plat sheets.
- e. PRMs must be set in the field and shown on the plat in accordance with F.S. Chapter 177 and subsection 4.912.E. Prior to final approval of a plat for recordation, the Village Surveyor and Mapper or designee shall physically inspect the PRMs to verify placement. The surveyor and mapper certifying the plat or designee must be present at the inspection by the Village Surveyor and Mapper, or designee, to identify the location of the PRMs.
- f. PCPs must be set and shown on the plat in accordance with F.S. Chapter 177.
- g. PRMs, PCPs and lot corners must be in place prior to final improvement inspection of subdivision improvements by the Village. The Village Surveyor and Mapper, or his designee, must make a field inspection to verify existence and placement of PRMs, PCPs and lot corners upon completion of subdivision improvements. The subdivider shall be responsible for ensuring that PRMs, PCPs and lot corners are in place after construction and that such PRMs, PCPs and lot corners are marked clearly for inspection. The developer or his designee shall be present, if requested, at PRM, PCP and lot corner inspections to identify the location of the PRMs, PCPs and lot corners. In circumstances involving subdivisions as to which a bond or other surety is required, the cost of setting or resetting all PRMs, PCPs and lot corners must be included separately as a line item in the project engineer's cost estimate for bonding purposes. The cost of setting these control points must be determined by a surveyor and mapper. The developer is responsible for the proper placement of destroyed, damaged or otherwise altered PRMs, PCPs and lot corners through securing the services of a surveyor and mapper. PRMs, PCPs and lot corners that are

replaced must meet all updated requirements of F.S. Chapter 177 and must include stamping thereon of "PRM Re-set" and the registration number of the individual replacing the original PRMs.

- h. Plat curve data may be tabulated subject to the following conditions:
  - 1. External plat boundary or roadway centerline curve data may not be tabulated.
  - 2. When lot line curve data are tabulated, a minimum of the arc length and the curve designation number or letter must be shown on the actual curve.
  - 3. Curve tables reflecting the tabulated data must appear on the map sheet on which the curves appear.
- i. Tangent line tables shall not be permitted unless the Village Surveyor and Mapper issues prior written approval of such tables, based upon good cause shown. Plat scale will not be considered as a factor in allowing tangent line tables. Tangent line tables, if approved, must appear on the applicable map sheet.
- j. The following notes shall appear on plats:
  - 1. "This plat, as recorded in its original form in the public records, is the official depiction of the subdivided lands described hereon and will in no circumstances be supplanted in authority by any other form of the plat, whether graphic or digital."
  - 2. "There may be additional restrictions that are not recorded on this plat that may be found in the public records of this county."
  - 3. For plats which contain public easements located within private streets or rights-of-ways: "In the event that the Village of Indiantown disturbs the surface of a private street due to maintenance, repair or replacement of a public improvement located therein, then the Village shall be responsible for restoring the street surface only to the extent which would be required if the street were a public street, in accordance with Village specifications."
  - 4. The first page of every plat shall include a signature and date line for the Village Mayor, indicating approval by the Village Council.
- k. Plats or portions of plats in flood zones A1-30, AH, and V1-30, as shown on the applicable FEMA map, shall have two (2) permanent benchmarks established on site in an accessible location and shall be shown and described on the plat in its current location together with identification number, elevations of the benchmarks and including vertical datum as approved by the Village. Benchmarks shall consist of a brass or aluminum

disc set in concrete or other permanent material, stamped with benchmark identification number, elevation and datum.

- l. Plats bordering on tidally affected navigable waters must comply fully with the requirements of F.S. Chapter 177 regarding establishment of a local tidal datum and the determination of the MHWL in the event that the MHWL is used to determine building or other setbacks required for development. The elevation and date of determination of the MHWL, as approved by the Florida Department of Environmental Protection (FDEP) Bureau of Surveying and Mapping, or its successor agency, must appear on the plat. A copy of written MHWL survey approved from the FDEP must be submitted to the Village Surveyor and Mapper prior to plat recordation.
- m. Plats immediately bordering on tidally affected navigable waters are exempted, to the extent permitted by the provisions of F.S. Chapter 177 from compliance with the requirement of establishing the MHWL in conformity with FDEP requirements provided that the MHWL location is not required for determining building or other setbacks required for development. In case of such an exemption, a safe upland line shall be physically established on the site in the vicinity of the shoreline at a location or elevation approved by the FDEP or the Village Surveyor and Mapper. The safe upland line may be used to determine the total plat acreage only and may not constitute a boundary line; also, the safe upland line must be shown on the plat with tie-ins to the apparent shoreline. The location and the courses of the safe upland line also must be shown on the boundary survey of the subject property, in conformity with the professional standards provided in Chapter 61G17-6, Florida Administrative Code, and such survey must be submitted at the time when the plat is initially submitted for review by the Village. The boundary survey must show the apparent shoreline, as applicable. Top of bank location must be used as a safe upland line if approved in writing, for good cause shown, by the Village surveyor and mapper. When a safe upland line is used, the apparent shoreline shall be shown on the plat and the plat must contain a note indicating that the plat boundary is the MHWL of the water body, as approximated by the safe upland or apparent shoreline. PRMs must be set in accordance with this Article along the safe upland line. The safe upland line may be used as the apparent shoreline provided that the surveyor and mapper certifying the plat demonstrates that the safe upland line is a proper representation of the apparent shoreline.
- n. Each plat submitted must be accompanied by a boundary survey which is signed and sealed by the surveyor and mapper whose signature and seal appears on the plat. The date of the field survey must be less than 180 days

prior to the date of initial submittal of the plat. A specific purpose survey may be submitted in the circumstance in which a safe upland line is used to approximate the boundary adjacent to a navigable water body.

- o. A minimum of two (2) boundary monuments shall be tied by a closed field traverse to the nearest approved Martin County geodetic control station and azimuth mark or approved pair of Martin County adjusted traverse points or to other control points established by Global Positioning System (GPS) which meet or exceed Third Order Class I Accuracy Standards according to current publication of the Federal Geodetic Control Committee (FGCC) procedures. Field traverse from plat boundary to geodetic control shall meet Third Order Class II Traverse Closure Standards when possible; however, at a minimum, traverse closure must meet the minimum technical standards set forth in Chapter 61G17-16, Florida Administrative Code. A signed copy of geodetic tie-in field notes and traverse closure data is required along with closure documentation for the external boundary of the plat.
- p. Prior to plat recordation, a CAD file, preferably in DWG format or, alternatively, in DXF format, or in a digital format that is acceptable to the Village surveyor and mapper, shall be provided to the Village showing all final plat survey data and line annotations, including, but not limited to, lots, roadways, easements, preserve areas, buffer areas, maintenance areas and other specific information which appears on the map portion of the plat. The purpose of such a computer file is to provide direct, efficient updates to the village's and county's geographic information systems (GIS) parcel map coverage. The coordinate positions within this file are to be rotated and translated to state plane coordinates in the North American Datum of 1983/adjustment of 1990 (NAD 83/90) Florida East Zone, or currently approved datum, based upon the required tie-in to geodetic control. The conversion of ground distance to grid distance within the digital file is not required.
- q. A plat checklist shall be submitted with all applications for plat approval. The checklist shall be submitted on a form approved by the village and shall be completed and signed by the surveyor and mapper responsible for the preparation of the plat. Plat review by Village shall not commence until the signed plat checklist has been submitted.
- r. Certified corner records must be filed in accordance with F.S. Chapter 177 for public land corners identification, recovered, reestablished, remonumented, restored or used as controls in the preparation of a plat. The original certified corner record must be submitted to the FDEP Bureau



of Surveying and Mapping, and a copy thereof must be provided to the county surveyor and mapper. Each certified corner must indicate the state plane coordinate value of the corner, based upon the geodetic tie-in requirement of this section. Upon approval of the certified corner record by FDEP, the certified number of the public land corner shall be shown on the plat prior to recordation of the plat.

- s. All properties contiguous to property which is to be platted must be identified, along the periphery of the plat, according to the applicable plat book and page or identified as unplatted consistent with Chapter 177, Florida Statutes.
- t. The legal description on the plat must contain the total acreage of the platted land and such acreage must be consistent with the title certification.
- u. A five-inch line for the subdivision parcel control number must be provided in the upper right-hand corner of the first page of the plat.
- v. The title of the plat (i.e., the name of the subdivision which is the subject of the plat) must be set forth on each page of the plat and must contain text of uniform size and type. If the plat encompasses a planned development (PD), then the title on the plat shall contain the abbreviation "PD".
- w. The title of the plat must be consistent with F.S. Chapter 177 which requires that each subdivision be given a name and that such name must not be the same or in any way so similar to any name appearing on any recorded plat in the same county as to confuse the records or to mislead the public as to the identity of the subdivision which is the subject of the plat, except when the subdivision is subdivided as an additional unit or section by the same subdivider or his successor(s) in title.
- x. All names, signatures, seals, stamps and related data on plats must be inscribed in "India" or similar indelible ink.
- y. The following shall be submitted with the record plat:
  - 1. Acceptable 100 percent security, if the subdivider has not elected to construct required improvements.
  - 2. In the event that improvements have been made before a record plat is submitted, a certificate from the subdivider's engineer shall be submitted indicating that all improvements have been constructed in accordance with the approved plans and

specifications, and an affidavit shall be submitted by the subdivider indicating that all bills for improvements have been paid.

(5) Procedure. An application for subdivision or right-of-way review shall be made prior to an application for a building permit and will only be accepted if all other ordinances and provisions of the Village have been complied with. Except as may otherwise be required by law or administrative procedures, all required county, regional, state or federal agency approvals shall be obtained prior to final approval by the Village Council.

(6) Approval Criteria. The Village Council, Planning, Zoning and Appeals Board and Plat Committee shall use compliance with the standards of this article as criteria in making their decision regarding approval or disapproval, or recommendation of approval or disapproval of an application.

(7) Plat Committee. Upon acceptance of a subdivision or right-of-way review application, the director shall forward a copy of the application and accompanying material to the plat committee for review and any other agency (whether municipal, county or state), as deemed applicable by the director.

If requested by the director, each reviewing discipline shall prepare a staff report with written comments and shall forward such staff report to the director. The director shall make a written finding that the subdivision or right-of-way application has or has not met the standards of this code. Except as may otherwise be required by law or administrative procedures, the applicant shall obtain any applicable County and State approval prior to scheduling of public hearing.

(8) Plat or Right-of-Way Vacation. A plat or right-of-way shall not be vacated which has dedicated rights-of-way to public use or dedicated rights-of-way or easements for any public utility, storm drainage course, floodplain, public access roadway, or dedicated public facility, until:

- a. Consents have been provided by the public users of the easements;
- b. Each public utility, which is franchised to provide services within the area of the plat, is notified in writing of the proposed vacation, and has 30 calendar days to comment;
- c. Conditions of consent from any public agencies or utilities having rights in any land proposed to be vacated have the conditions incorporated into the vacation; and
- d. If any agency or utility having rights in any land proposed to be vacated objects, a finding is made that a specific public benefit will not be annulled if the vacation is granted.

**Sec. 12-8. – Major Site Plan.**

Applications for site plan review shall require the submission of a site plan package in accordance with the following regulations and procedures.

Site plan approval by the Village Council, after a public hearing, shall be required for all development within the Village, except for the following: 25 or fewer residential units, new construction or additions to non-residential buildings not exceeding 4,000 square feet, new construction or additions to industrial buildings not exceeding 5,000 square feet, new construction or additions to mixed-use developments not exceeding 20,000 square feet, and other minor proposed development applications as determined by the director. When a variance from the requirements of this LDR is required, review shall be by the Village Council. No certificate(s) of occupancy shall be issued for any building or buildings unless all facilities included in the approved site plan have been provided. The director may, if it is deemed necessary, retain consultants to assist in the review of an application for site plan approval.

The following types of proposed development and construction shall utilize the minor site plan review and approval process: 25 or fewer residential units, new construction or additions to non-residential buildings not exceeding 4,000 square feet, new construction or additions to industrial buildings not exceeding 5,000 square feet, new construction or additions to mixed-use developments not exceeding 20,000 square feet, and other minor proposed development applications as determined by the director. When a variance from the requirements of this LDR is required, review shall be by the Village Council.

Table 12-2. Minor and Major Site Plan Thresholds

	Major Site Plan	Minor Site Plan
Residential Units	26 or more units	25 or less units
Non-Residential Space	4,001 square feet or more	4,000 square feet or less
Industrial Space	5,001 square feet or more	5,000 square feet or less
Mixed-Use Space	20,001 square feet or more	20,000 square feet or less

(1) Initiation of Application. A site plan review may be initiated by petition of the property owner or owner's agent or contract purchaser with the owner's written consent.

(2) Application Filing. Site plan review applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form provided by the Village must be completed and signed by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be forwarded to all appropriate reviewing agencies for comment.

The application shall be accompanied by a disclosure statement by the parties with at least five (5) percent interest in the project signed by the applicant and notarized. The applicant, owner or owner's agent or contract purchaser with the owner's written consent, shall keep all information current during the processing of the application

(3) Submittal Requirements. All site plan review applications shall be accompanied by the following items:

- a. The location and size of the site, including its legal description and a survey, signed and sealed by a certified surveyor and mapper, completed not longer than 6 months in advance of the date of the application.
- b. The recorded ownership interests including liens and encumbrances and the nature of the developer's interest if the developer is not the owner.
- c. The relationship of the site to existing development in the area including streets, utilities, residential and commercial development, and physical features of the land including pertinent ecological structures within 100 feet.
- d. The density or intensity of land use to be allocated, all parts of the site to be developed, together with tabulations by acreage and percentage thereof.
- e. The location, size and character of any common open space and the form of organization proposed to own and maintain any common open space.
- f. The use and the number of stories, height, bulk and location of all buildings and other structures.
- g. The requirements as set forth in this LDR Chapter and other Chapters, including the necessary documentation for providing required improvements such as streets, water supply, storm drainage, parking, landscaping and sewage collection as well as the provisions for all other appropriate public and private services such as police or security protection, fire protection and refuse collection.
- h. The substance of covenants, grants of easements, or other restrictions proposed to be imposed upon the use of the land, buildings and structures including proposed easements or grants for public utilities.
- i. In the case of plans which call for development over a period of years, a phasing schedule showing the approximate times within which applications for building permits are intended to be filed.

- j. Any additional data, plans or specifications which the applicant believes is pertinent and will assist in clarifying his application.
- k. A demonstration that the proposed development does not degrade adopted levels of service in the Village.
- l. Architectural elevations for buildings in the development; exact number of dwelling units, sizes and types and total number of bedrooms, if residential. For nonresidential development, the Floor Area Ratio and Gross Square Footage shall be required.
- m. Plans for signs, if any.
- n. Traffic Study, as deemed necessary by the director, stating current average daily and peak hour traffic volume counts, a description of existing traffic conditions, programmed and planned roadway improvements and future traffic conditions. All roadway improvements and associated costs shall be provided.
- o. Landscaping plan, including types, sizes and locations of vegetation and decorative shrubbery, and showing provisions for irrigation and maintenance. Compliance with Village Landscape and Resource Protection requirements.
- p. Color renderings and elevations.
- q. Photometrics.
- r. Flood criteria data and finished floor elevations.
- s. Additional data, maps, plans, surveys or statements as may be required for the particular use or activity involved.

(4) Procedure. An application for site plan review shall be made prior to an application for a building permit and will only be accepted if applicant has complied with all other ordinances and provisions of the Village. Except as may otherwise be required by law or administrative procedures, all required county, regional, state or federal agency approvals shall be obtained prior to final site plan approval.

(5) Approval Criteria. The Village Council and Planning, Zoning and Appeals Board shall use the following criteria in making their decision regarding approval or disapproval, or

recommendation of approval or disapproval in the case of the Planning, Zoning and Appeals Board, of a site plan review application:

- a. The development permitted by the application, if granted, conforms to the growth management plan, is consistent with applicable area or neighborhood studies or plans, and would serve a public benefit warranting the granting of the application at the time it is considered.
- b. The development permitted by the application, if granted, will have a favorable impact on the environmental and natural resources of the Village, including consideration of the means and estimated cost necessary to minimize the adverse impacts, the extent to which alternatives to alleviate adverse impacts may have a substantial impact on the natural and human environment, and whether any irreversible or irretrievable commitment of natural resources will occur as a result of the proposed development.
- c. The development permitted by the application, if granted, will have a favorable impact on the economy of the Village.
- d. The development permitted by the application, if granted, will efficiently use or not unduly burden water, sewer, solid waste disposal, recreation, education or other necessary public facilities which have been constructed or planned and budgeted for construction.
- e. The development permitted by the application, if granted, will efficiently use or not unduly burden or affect public transportation facilities, including mass transit, roads, streets and highways which have been constructed or planned and budgeted for construction, and if the development is or will be accessible by public or private roads, streets or highways.

(6) Development Review Staff (DRS). Upon acceptance of a site plan review application, one which is deemed non-administrative, the Director shall forward a copy of the application and accompanying material to each of the following Departments for review, as applicable.

- a. Community and Economic Development
- b. Public Works
- c. Parks and Recreation
- d. Building
- e. Any other agency (whether municipal, county or state), as deemed

applicable by the Director.

If requested by the director, each reviewing discipline shall prepare a staff report with written comments and shall forward such staff report to the director. The director shall make a written finding that the site plan has or has not met the standards of this Code. Except as may otherwise be required by law or administrative procedures, the applicant shall obtain applicable County and State approval prior to scheduling of public hearing.

(7) Site Plan Expiration. A final site plan approved, either by the Village Council or administrative action shall only be valid for a period of one (1) year. For good cause shown, an applicant may apply for an extension of time prior to the expiration of the 1-year period for the initial phase and each subsequent phase. Such extension of time shall be granted administratively and shall not exceed six (6) months. A maximum of two (2) extensions may be granted. If a final plan has been allowed to expire without application for a building permit, ~~or~~ commencement of construction or an extension the applicant will be required to submit a new site plan application.

(8) Modification to a Previously Approved Site Plan - Minor. The director is authorized to consider and approve minor modifications to previously approved site plans which do not exceed the thresholds established below. A letter of intent shall be submitted as part of the Minor Modification application. A minor site plan modification does not require Village Council action or hearing.

- a. A minor modification must demonstrate the following, as applicable:
  1. The number of buildings, number of stories, height and number of units is the same or fewer.
  2. Lot coverage and floor area ratio have not increased or decreased by more than five (5) percent.
  3. The number of parking spaces may increase or decrease by as much as five (5) percent, provided the plan complies with all other requirements of this subsection and of this LDR.
  4. Density or intensity (floor area ratio) may be transferred from one phase of development to another, provided that the total floor area ratio is not changed and the floor area ratio for each phase is not increased or decreased by more than five (5) percent.
  5. Roadway patterns, including ingress-egress points, are in the same general location as shown on the original plans.
  6. Parking is in the same general location and configuration.
  7. The building setbacks are the same or greater distance from perimeter property lines.
  8. The landscaped open space is in the same general location and, is of the same or greater amount.
  9. Elevations and renderings of buildings have substantially similar architectural expressions.

10. Recreational facilities either remain the same or are converted from one recreational use to another.
11. If recreational facilities were not shown in the approved plans, they may be added, provided there is no net increase in lot coverage or net decrease in required non-recreational open space.
12. The proposed changes do not have the effect of creating any noncompliance or nonconformity.
13. Additional out parcels may be added where there is no net increase in the project's total floor area ratio (FAR) or lot coverage, there is no net reduction in landscaped open space.
14. Reductions in the number of parking spaces on the site are permitted if sufficient parking spaces are provided to satisfy the requirements of this Code.
15. May not be contrary or modify a condition of approval or any previously approved amendment.
16. The proposed changes do not result in an increase in stormwater runoff.

(9) Extension of a Previously Approved Site Plan. The director is authorized to consider and approve requests to extend the length of time that a previously approved site plan is valid. A letter requesting an extension shall be submitted to the Village. An extension may be granted for six (6) additional months, two (2) such extensions may be granted. A site plan extension does not require Village Council action or hearing.

- a. A request for extension must include the following, as applicable:
  1. Site plan number and date of original approval and any previous extensions.
  2. The reason for the request.
  3. That the extension of the project will not unduly, negatively impact the Village.

**Sec. 12-9. – Minor Site Plan.**

Applications for administrative site plan review shall require the submission of a site plan package in accordance with the following regulations and procedures.

The following types of proposed development and construction shall utilize the administrative site plan review and approval process: 25 or fewer residential units, new construction or additions to non-residential buildings not exceeding 4,000 square feet, new construction or additions to industrial buildings not exceeding 5,000 square feet, new construction or additions to mixed-use developments not exceeding 20,000 square feet, and other minor proposed development applications as determined by the director. When a variance from the requirements of this LDR is required, review shall be by the Village Council.



(1) Initiation of Application. A site plan review may be initiated by petition of the property owner or owner's agent or contract purchaser with the owner's written consent.

(2) Application Filing. Site plan review applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form must be completed and signed by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be reviewed by the department.

(3) Submittal Requirements. All administrative site plan review applications shall be accompanied by the requirements found in Sec. 12-8. – Major Site Plan, unless otherwise determined by the director.

(4) Approval Criteria. The department shall use the approval criteria found in Sec. 12-8. – Major Site Plan in making their decision regarding approval or disapproval of an administrative site plan review application.

#### **Sec. 12-10. – Planned Developments.**

Applications for planned developments shall require the submission of a site plan package in accordance with the following regulations and procedures.

Planned development approval by the Village Council, after a public hearing, shall be required. No certificate(s) of occupancy shall be issued for any building or buildings unless all facilities included in the approved planned development have been provided. The Director may, if it is deemed necessary, retain consultants to assist in the review of an application for planned development approval.

(1) Initiation of Application. An application for a planned development may be initiated by petition of the property owner or owner's agent or contract purchaser with the owner's written consent.

(2) Application Filing. Planned development applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form provided by the Village must be completed and signed by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be reviewed by the Department.

The application shall be accompanied by a disclosure statement by the parties with at least five (5) percent interest in the project signed by the applicant and notarized. The applicant, owner or owner's agent or contract purchaser with the owner's written consent, shall keep all information current during the processing of the application.

(3) Submittal Requirements. All planned development applications shall be accompanied by the requirements found in Sec. 12-8. – Major Site Plan.

(4) Approval Criteria. The Village Council shall use the approval criteria found in Sec. 12-8. – Major Site Plan in making their decision regarding approval or disapproval of a planned development application. The Planning, Zoning and Appeals Board shall use the approval criteria found in Sec. 12-8. – Major Site Plan in making their decision regarding a recommendation of approval or disapproval of a planned development application.

**Sec. 12-11. – Developments Agreements and Amendments.**

Article 9 – Development Agreements defines the process for review and acceptance of agreements between an applicant and the Village of Indiantown.

**Sec. 12-12. – Variance.**

Owners of lands or structures may apply to the department for a variance from the requirements or restrictions of these LDRs; except that no variance for use, intensity or density shall be considered. Variances shall be submitted in writing through the department, stating the specific variance(s) requested. Each variance of an LDR requirement necessitates a separate variance application and process. The PZAB, after a public hearing, may approve, approve with conditions or deny the application.

(1) Initiation of Application. A variance application may be initiated by petition of the property owner or owner's agent or contract purchaser with the owner's written consent.

(2) Application Filing. Variance applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form must be completed and signed by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be reviewed by the department for comment.

(3) Submittal Requirements. All variance applications shall be accompanied by the following items:

- a. An application, on a form provided by the Village, completed and signed by the Village, applicant, the owner or owner's agent or contract purchaser with the owner's written consent.
- b. A disclosure statement by the parties with at least five (5) percent interest in the project signed by the applicant and notarized. The applicant, owner or owner's agent, or contract purchaser with the owner's written consent, shall keep all information current during the processing of the application

- c. The particular provision of the LDR which prevents the proposed construction on the property.
- d. The existing zoning of the property, including any previously approved conditions or modifications.
- e. The special circumstances, conditions or characteristics of the land, building or structure that prevent the use of the land in compliance with the terms of this ordinance.
- f. That particular hardship which would result if the specified provisions of the ordinance were to be applied to the subject property.
- g. The extent to which it would be necessary to vary the provisions of this ordinance to permit the proposed construction on, or use of, the property.

(4) Approval Standards. The applicant shall have the burden of proof and provide a written statement describing the manner and degree of compliance with the following standards:

- a. That strict application of the regulations of this ordinance would produce undue hardship.
- b. That such demonstrated hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
- c. That the authorization of such variance will not be of substantial detriment to adjacent properties and that the character of the district will not be changed by the granting of the variance.
- d. Such variance is not contrary to the public interest or to the stated purpose of this ordinance.
- e. That the hardship is not self-imposed.
- f. That the hardship is not merely financial in nature.

**Sec. 12-13. – Administrative Variance.**

Owners of lands or structures may apply to the Department for an administrative variance from the requirements or restrictions of these LDRs. Applications for administrative variances shall be submitted in writing through the Department, on a form provided by the Village, stating the specific variance(s) requested. The purpose of this section is to provide a procedure by administrative decision for certain residential property to obtain

minor administrative variances relating to the setback, lot coverage and building spacing requirements specified in the underlying zoning district regulations. This section shall only apply to owners in single-family, duplex and townhouse residences and accessory residential uses.

(1) Initiation of Application. An administrative variance application may be initiated by petition of the property owner or owner's agent, or contract purchaser with the owner's written consent.

(2) Application Filing. Administrative variance applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form must be completed and signed by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be reviewed by the department for comment.

(3) Administrative Variance Limitations and Exclusion.

- a. Administrative adjustment approvals shall be limited to those lots within an area where at least 50 percent of the lots within approximately 300 feet, have already been developed or platted.
- b. A setback shall not be adjusted below 50 percent of that required by the underlying district regulations.
- c. Lot coverage for a principal and/or accessory structure shall not be increased by more than 10 percent of that required by the underlying district regulations.
- d. Spacing between structures on the same lot may be reduced; provided, however, in no event shall such spacing be less than five (5) feet.
- e. Unless specifically permitted by the underlying zoning regulations, no accessory building shall be placed in front of the front building line, or front yard setback (whichever is less) of the principal building.
- f. Under this section, no application shall be submitted, nor approval granted for an adjustment to canopy carport regulations.

(4) Notice to adjacent property owners. The application shall include a written notice of the request for administrative variance and proof, acceptable to the department, that the applicant presented the written notice to all adjacent property owners, including those across rights-of-way less than 70 feet wide.

(5) Inspection. Upon receipt of the application for an administrative variance, the Director or designee, prior to making a decision, may inspect the subject property and the surrounding properties to determine what impact, if any, the proposed administrative variance will have on the contiguous properties.

(6) Review standards. The following standards shall be applied in considering an administrative variance:

- a. No more than two (2) sides of the encroaching construction shall be considered for a setback variance (all prior setback variances, administrative variances and alternative site development options shall count toward this limitation); and
- b. No prior setback, lot coverage or building spacing variance(s), administrative variance(s) or alternative site development option(s) shall be further changed by administrative variance; and
- c. The architectural design, scale, mass and building materials of any proposed structure or addition shall be aesthetically harmonious with that of other existing or proposed structures or buildings on the property; and
- d. The plan shall clearly illustrate water runoff solution(s) for the encroaching construction area; and
- e. The property owner shall certify in writing that any and all easement areas as shown on the recorded plat remain unencumbered by the encroaching construction, unless a release of interest by the easement holder(s) is obtained and submitted prior to permit issuance; and
- f. The applicant provides written certification from a registered architect or engineer that the existing encroaching construction complies, or can be made to comply with all applicable construction codes, including but not limited to the Florida Building Code, the applicable Fire Prevention Code and other zoning regulations; and
- g. Any reduction in the spacing requirement between a principal building and an accessory building or structure on the same lot shall not result in a situation that causes maintenance difficulty or an unsightly appearance; and
- h. The proposed accessory building or structure is a normal and customary accessory residential use; and

- i. The property owner certifies in writing that the type and placement of any proposed outdoor lighting fixtures shall comply with the Village Code and the Florida Building Code.
- j. Notwithstanding the foregoing, no proposed administrative variance shall be approved where the director determines that the proposed construction or addition:
  - 1. Will not be in harmony with the general appearance and character of the subject block face or the block face across the street from the subject property or will result in a significant diminution of value of the adjacent property; or
  - 2. Will be detrimental to the public welfare in that it will have substantial negative impact on public safety due to unsafe traffic movements, heightened pedestrian/vehicular conflicts or heightened risk of fire; or
  - 3. Creates materially greater adverse privacy impacts on adjacent residences than that permitted by the underlying district regulations.

(7) Conditions and safeguards. In granting an administrative variance, the director may prescribe conditions and safeguards deemed necessary to protect the interests served by the underlying zoning district regulations, including, but not limited to:

- a. Landscape materials, walls and fences as required buffering.
- b. Modification of the orientation or deletion of any openings.
- c. Modification of site arrangements.
- d. Modification of plans.

(8) Advertising. After the director's decision, an advertisement shall be published pursuant to Sec. 12-2. – General Requirements for Applications.

**Sec. 12-14. – Special Exception.**

Owners of property seeking a special exception use may apply to the department for the proposed use. Special exceptions may only be requested in compliance with the Use Table, Article 3, Table 3-3. Special exceptions requests shall be submitted in writing through the department, stating the use(s) requested. The PZAB, after a public hearing, may approve, approve with conditions or deny the application.

(1) Initiation of Application. A special exception application may be initiated by petition of the property owner or owner's agent or contract purchaser with the owner's written consent.

(2) Application Filing. Special exception applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form must be completed and signed by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be reviewed by the department for comment.

(3) Submittal Requirements. All special exception applications shall be accompanied by the following items:

- a. An application, on a form provided by the Village, completed and signed by the Village, applicant, the owner or owner's agent or contract purchaser with the owner's written consent.
- b. A disclosure statement by the parties with at least five (5) percent interest in the project signed by the applicant and notarized. The applicant, owner or owner's agent, or contract purchaser with the owner's written consent, shall keep all information current during the processing of the application.
- c. The proposed use of the property and pertinent details of the operation and development.
- d. The zoning of the property, including any previously approved conditions or modifications.
- e. A survey, signed and sealed by a certified surveyor and mapper, completed not longer than six (6) months in advance of the date of the application.

(4) Procedure.

- a. Applications shall be received by the Village in a form set by the Village and made available to all applicants.
- b. The Department shall review all submitted applications for special exception and shall prepare a comprehensive written recommendation.
- c. The Planning, Zoning and Appeals Board shall hold a public hearing to consider applications for special exception and shall, upon conclusion of the public hearing, make a decision with respect to each application. This decision may include conditions of development to reduce impacts of the proposed use and ensure cohesion with the surrounding neighborhood.

(5) Approval Standards. The applicant shall have the burden of proof and provide a written statement describing the manner and degree of compliance with all of the following standards:

- a. The proposed use will not be detrimental to the permissible use and enjoyment of adjacent properties.
- b. The proposed use does not pose a hazard to the health, safety and welfare of the Village and residents.
- c. The proposed use will not have an undue adverse impact on traffic patterns and volume.
- d. Whether the proposed use complies with the comprehensive plan.
- e. The proposed use will comply with all other requirements of the Land Development Regulations and the Village's code of ordinances.

**Sec. 12-15. – Certificate of Use.**

A certificate of use shall be granted for all uses which are in compliance with the requirements of the Land Development Regulations.

(1) Initiation of Application. A certificate of use application may be initiated by petition of the property owner or owner's agent or contract purchaser with the owner's written consent.

(2) Application Filing. Certificate of use applications shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form must be completed and signed by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be reviewed by the department.

(3) Submittal Requirements. All certificate of use applications shall be accompanied by the following:

- a. A lease agreement or title for the property where the certificate is requested.
- b. A site plan of the property showing parking and entrances.
- c. A floorplan indicating square footage of the space and which meets all building code and fire safety requirements.
- d. A narrative describing the proposed use.



(4) Approval Criteria. The Village shall use the requirements in the Land Development Regulations, the Fire Safety Regulations, and the Florida Building Code to determine if a certificate of use may be granted.

**Sec. 12-16. – Permits.**

All buildings and structures being built new or being altered or added shall require a permit, as set forth in the Florida Building Code and in compliance with these Land Development Regulations.

(1) Initiation of Application. A permit application may be initiated by petition of the property owner or owner's agent, or contract purchaser with the owner's written consent.

(2) Application Filing. Permit applications, for the proposed development type, shall be filed with the Department of Community and Economic Development, accompanied by the fee that has been established by the Village Council. The required application form must be completed and signed by the owner or owner's agent or contract purchaser with the owner's written consent. Upon acceptance of a completed application, the application shall be reviewed by the department for comment.

(3) Complete Applications. All complete applications shall contain the requirements as listed on the permit application and all documents responsive to the requirements of the Land Development Regulations. Upon acceptance of a completed application, the application shall be reviewed by the department for comment.

(4) Approval Criteria. The application shall be reviewed for compliance with all applicable regulations including the Florida Building Code, the Land Development Regulations, Fire Regulations, and any state requirements.

**Sec. 12-17. – Interpretations.**

This shall provide a uniform mechanism for rendering formal written interpretations of these LDRs.

(1) Initiation of Request. An interpretation may be requested for any items related to all provisions of the comprehensive plan – interpretations of the text of the comprehensive plan, interpretations of the future land use district boundaries and LDRs – including but not limited to: interpretations of the text of the LDR, interpretations of the zoning district boundaries, interpretations of compliance with a condition of approval and interpretations of whether an unspecified use falls within a use classification, use category or use type allowed in a zoning district.

(2) Director Responsibility. The director shall be responsible for making written interpretations. The interpretation shall be in a form approved by the Village Attorney

and shall constitute the formal written interpretation. A written interpretation is binding on subsequent decisions by the director or other Village staff and officials unless the interpretation is modified in accordance with this section.

The director may amend or repeal a formal written interpretation on the director's own initiative, or upon a request for interpretation submitted in accordance with this section, based upon new evidence or discovery of a mistake in the original interpretation, a change in State or federal law, an amendment to the LDR or an amendment to the Village Code of Ordinances that relates to the original formal written interpretation.

**Sec. 12-18. – Vested Rights Determinations.**

Applications for vested rights determination shall require the submission of an application package in accordance with the following regulations and procedures.

(1) Initiation of Application. A vested rights determination application may be initiated by petition of the property owner or owner's agent or contract purchaser with the owner's written consent.

(2) Application Filing. Vested rights determination applications shall be filed with the department, accompanied by the fee that has been established by the Village Council. The required application form provided by the Village must be completed and signed by the owner or owner's agent or contract purchaser with the owner's written consent.

(3) Submittal Requirements. All amendment applications shall be accompanied by the following items:

- a. An application, on a form provided by the Village, completed and signed by the applicant.
- b. A disclosure statement by the parties with at least five (5) percent interest in the project, signed by the applicant and notarized. The applicant, owner or owner's agent or contract purchaser with the owner's written consent, shall keep all information current during the processing of the application.
- c. The application must also contain a sworn statement as to the basis upon which the vested rights are asserted, together with documentary evidence supporting the claim.

(4) Procedure. The Department shall review the application and attachments as to form and sufficiency and within 20 business days of receipt thereof determine and notify the applicant whether the application information complies with this section. Within 30 calendar days after acknowledging receipt of a sufficient application, the department shall place the application on the agenda of the next available PZAB meeting, unless otherwise requested by the applicant. The Planning, Zoning and Appeals Board shall

review the application and any other information which it deems necessary and shall issue a final determination as to the vested rights claim.

(5) Approval Criteria. An application for a vested rights determination shall be approved only if the applicant demonstrates by competent substantial evidence, one of the following:

- a. Development that is expressly approved in a court order. The court order shall be made an exhibit to the vested rights determination and the determination shall be subject to the terms and conditions of the court order.
- b. Development subject to a valid and unexpired Building Permit, Final Plat or Final Development Plan approved under the Village's LDRs, or the Martin County LDC, whichever was in effect at the time of approval. The approval shall be made an exhibit to the vested rights determination and the determination shall be subject to the terms and conditions referenced in the approval. The determination shall expire upon expiration of the approval on which it was based.
- c. Development subject to common law vested rights
  1. General Standards
    - (i.) There is a valid, unexpired act or omission of the Village upon which the applicant relied; and
    - (ii.) The applicant's reliance was reasonable and in good faith; and
    - (iii.) The applicant, in reliance upon the valid, unexpired act, has made a substantial change in position and/or has incurred extensive obligations or expenses; and
    - (iv.) It would be inequitable, unjust or fundamentally unfair to destroy the rights acquired by the applicant by means of the Village's act or omissions.

(6) Effect of Vested Rights Determination. A determination by the Planning, Zoning and Appeals Board that a property owner is entitled to a vested right shall entitle development or use in accordance with such determination. However, a vested right determination shall not limit the applicability of other provisions of these LDRs, nor shall it entitle the applicant to the issuance of any development permit not specified in the final vested rights determination.

(7) Limitations on Vested Rights Determination.

- a. Except as otherwise stated in the vested rights determination, two (2) years after the issuance of a vested rights determination, the

determination shall expire and the issuance of development approvals or permits for the property subject to the vested rights determination shall be subject to the requirements of the comprehensive plan and this LDR.

- b. The applicant or the applicant's successor may request an extension of the two-year period. Said request must be filed not less than 90 days prior to the expiration of the two-year period. Such a request shall be scheduled for hearing by the Planning, Zoning and Appeals Board within 30 days after it is filed. The Planning, Zoning and Appeals Board may grant extensions for such additional periods as it deems appropriate to avoid undue hardship to the applicant, provided the applicant pays all fees required.
- c. All development subject to a vested rights determination shall be consistent with the terms of the development approval or permit upon which the determination was based.
- d. A vested rights determination shall apply to the land and is therefore transferable from owner to owner of the land subject to the determination.
- e. Notwithstanding anything in this section to the contrary, a vested rights determination may be revoked by the Planning, Zoning and Appeals Board if it is shown that a failure to revoke said determination would result in a peril to the health, safety or general welfare of the residents of the Village unknown at the time of the approval of the determination.

**Sec. 12-19. – Appeal of Decisions.**

Any person or persons claiming to be aggrieved on account of any ruling by the director charged with enforcing the Land Development Regulations may appeal first to the Planning, Zoning and Appeals Board. If aggrieved by a ruling of the Planning, Zoning and Appeals Board said person or persons may appeal to the Village Council.

(1) Application Filing. The filing of a complete application, within 30 days of the decision, which shall include the applicable fee, for appeal from the director's or Planning, Zoning and Appeals Board ruling shall stay all proceedings and all work on the premises involved unless such stay shall be deemed to imperil life or property. In such cases, proceedings or work shall not be stayed except by an order granted by the Village Council or by a court of competent jurisdiction if the same shall have been refused by the Village Council.

(2) Record of Decision being Appealed. Upon acceptance of a complete application, the

director shall transmit to the Planning, Zoning and Appeals Board or Village Council all papers or other records upon which the action or decision appealed was taken.

- (3) Public Hearing by the Village Council. The Village Council shall hold a public hearing, and may reverse or affirm, wholly or partly, or may modify the director's or Planning, Zoning and Appeals Board decision regarding the application.
- (4) Approval Criteria. An appeal shall be sustained only if the Village Council finds that the Director or Planning, Zoning and Appeals Board erred. The decision of the Village Council shall be by resolution. The Director shall serve a copy of the decision on the applicant and upon each other person who was a party of record at the hearing.
- (5) Withdrawal of Appeal. An appeal to the Village Council may be withdrawn by the applicant at any time prior to the deadline of cancellation of the newspaper advertisement for the public hearing on the application; after this deadline an appeal may be withdrawn only with the permission of the Village Council.

**Sec. 12-20. – Temporary Uses and Special Events**

Article 3-Section. 3-5.6. defines the process for review and acceptance of temporary use and special event applications.