

ARTICLE I GENERAL PROVISIONS.

Section 1.0 Title.

This Code shall be known and cited as the "City of Fellsmere Land Development Code", and may be referred to herein as the "City of Fellsmere Land Development Regulations Ordinance," "Code," or "Land Development Code."

Section 1.1 Authority.

This Code is adopted pursuant to Article VIII, Section 2(b) of the Florida Constitution, Section 163, Part II, Florida Statutes, and Chapter 166, Florida Statutes.

Section 1.2 Purpose and Intent.

The purpose of this Code is to establish comprehensive controls for development in the City of Fellsmere based on the Comprehensive Plan as enacted to protect, promote and improve the public health, safety, comfort, order, appearance, convenience, morals and general welfare of the people; to plan for future social, economic and physical needs, that protect, enhance, conserve the value of land, buildings and natural resources in all zoning districts.

The major goals and objectives of these land development regulations are as follows:

- A. Controlling and regulating growth of the city, concentrating more intense development in areas with high development capability and limiting development in areas of low capability.
- B. To provide a means of implementing land development standards that will facilitate orderly growth yet not unduly hinder, restrict or interfere with balanced economic activity and land use.
- C. Balancing the interest of the general public in the city and that of individual property owners.
- D. To attain the maximum coordination and integration of the various land uses and land development activities so they can be conveniently and efficiently serviced by community facilities, streets, education facilities, recreational areas and public open spaces.
- E. To insure that the citizens and taxpayers of the City of Fellsmere will not have to bear the cost resulting from haphazard land development or the lack of adequate and necessary physical improvement incidental to land use and development.
- F. To respond effectively and positively to the growth which is expected to occur within the City of Fellsmere in the future.

Section 1.3 Applicability

- A. General Application:

This Code shall apply to all structures and the use of land throughout the incorporated area of the City of Fellsmere, Florida. Existing structures and uses that are inconsistent with the provisions of the Code shall be permitted only as provided for in Article VIII of this Code. All applications filed pursuant to this Code shall be required to meet the requirements of this Code which are in effect on the date of final decision on the application.

B. General Prohibition:

It shall be unlawful for any person to carry out any development that is inconsistent with the requirements of this Code and the Comprehensive Plan.

It shall be unlawful for any person to alter, modify or otherwise change any existing development in such a way that fails to continue to meet the requirements of this Code.

C. Building Permits Issued Prior To Effective Date:

This Code shall not affect lawfully issued building permits, or site plans, provided that the building permit or site plan is not allowed to expire.

Section 1.4 Findings.

The City Council finds that:

- A. A single set of administrative procedures for making all land use decisions promotes efficiency, predictability and citizen participation.
- B. All development proposals must undergo a development review process to assure compliance with the requirements of this Code.
- C. Mandatory pre-application review allows property owners to modify proposals in response to early staff comment.
- D. All administrative decisions shall be supported by a record with written findings to assure accountability and efficient appellate review.
- E. A quick and efficient avenue of appeal shall be available for all ministerial and administrative decisions.
- F. Enforcement of development orders and the provisions of this Code shall be through procedures that are efficient, effective and consistent with code enforcement procedures established by state law.

Section 1.5 Administration and Enforcement.

Several groups are responsible for administering and enforcing the requirements of the Land Development Code (LDC). These responsibilities are delineated in the City Code.

- A. The City Council has the primary and ultimate responsibility for the provisions of this code. The Council authority is delineated in the City's Charter.
- B. The Planning and Zoning Commission, whose duties and powers are more particularly described in this Code, serves as an advisory body for the Council on matters related to zoning and development. The City Council designates the Planning and Zoning Commission as the City's Local Planning Agency.
- C. The Board of Adjustment, whose duties and powers are more particularly described in this Code, is responsible for appeals from the requirements set forth in the Land Development Code.

- D. The Code Enforcement Special Master, whose duties and powers are more particularly described in Section 2-166, et seq. of the Code of Ordinances for the City of Fellsmere, is responsible for the review and prosecution of violators of this Code.
- E. Development is also regulated through the issuance of building permits. This process is administered by the Building Official as authorized in the Code of Ordinances for the City of Fellsmere.

Section 1.6 Comprehensive Plan.

Prior to the approval of any land development activity the City will review the proposal to ensure consistency with the City's Comprehensive Plan. The goals, objectives and policies including the level of service standards established in the various elements of the Comprehensive Plan must be adhered to in order for the development to proceed. The zoning district required for a proposed development must specifically be compatible with the future land use designation of the site as shown on the Future Land Use Map of the Comprehensive Plan as well as specific policies in the plan. Policies take precedence over land use classifications.

Applicants for development proposals not consistent with the Comprehensive Plan may apply to the City to amend the Comprehensive Plan as regulated by Florida Statute 163.3187 and City procedures.

Section 1.7 Zoning.

The Code provides for the establishment of zoning districts on all lands within the City. Contained in this document are standards for the creation of districts, interpretation of district boundaries, application of district regulations, permitted uses, conditional uses, environmental standards, supplementary regulations, site plan approvals and necessary administrative and enforcement requirements. The provisions for each zoning district delineates minimum design standards for lot area, lot width, lot depth, living area, height, property line setbacks and open space.

In addition to the requirements of these Land Development Regulations, the Code of Ordinances for the City of Fellsmere. provides regulations for the location of commercial businesses selling alcoholic beverages for consumption on site.

Section 1.8 Subdivision.

The subdivision of land into parcels or lots is regulated by Article XV of this Code. Procedures for submitting, reviewing, and approving subdivision plats are specified along with standards for the creation of lots and the provision of roads, water, sanitary sewer and stormwater management.

Section 1.9 Site Plans.

Site plans are required prior to the issuance of building permits for all new development except single family lots. Article XVII of this Code provides procedures and standards for site plans.

Section 1.10 Design Standards and Building Regulations.

Development in the City must promote the health, safety and welfare of the various neighborhoods and areas of the City. Building and design standards have been adopted to set minimum requirements for protecting the community. Standards have been set for Roads, Stormwater Management, Parking and Loading Areas, Tree Protection, Soil Conservation,

Landscaping and Buffering, Signs and Advertising, Environmental Standards, Flood Protection and Building Regulations within the City Code.

Section 1.11 Concurrency Management.

Permits for any type of land development activity may not be issued until the City has determined that the proposal is consistent with the Comprehensive Plan and all applicable regulations. To be consistent with the Comprehensive Plan a determination must be made that the proposal will not cause a drop in the established level of service standards for the following public services and facilities: Roads, sanitary sewer, solid waste, drainage, potable water, and recreation. The concurrency management system, which is set forth in Section 17.24 of this Code, will ensure that adequate facilities are in place concurrent with the impacts of the new development pursuant to Florida Statute Chapter 163, Part II.

In reviewing development proposals the City will evaluate the existing condition of the listed facilities determining the available capacity of each to serve the proposed project. Measures necessary to comply with the adopted level of service standards will be identified as conditions of approval of the application. These measures may include improvements to facilities or payment of funds to accomplish upgrades to facilities or payment of funds to accomplish upgrades to facilities or services. The applicant is responsible for providing information to assist the City in the evaluation of conditions. The City will annually monitor the condition of all applicable facilities to determine if level of service standards are being adhered to and if revisions need to be made to the Capital Improvements Element or other elements of the Comprehensive Plan.

Section 1.12 Rules of Interpretation

This Code shall be construed liberally to effect the purposes thereof, and the rules of this section shall be observed except when the context clearly requires otherwise:

- A. Words used or defined in one tense or form shall include other tenses or derivative forms.
- B. Words in the singular shall include the plural and words in the plural shall include the singular.
- C. The masculine gender shall include the feminine and the feminine shall include the masculine.
- D. The particular shall control the general.
- E. The words "should" or "shall" or "will" are mandatory.
- F. The word "may" is permissive.
- G. In the event of a conflict between the text of this Code and any caption, illustration, table, or map, the text shall control.
- H. The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- I. The word "erected" also includes constructed, reconstructed, altered, placed, or relocated.
- J. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either...or," the conjunction shall be interpreted as follows:

1. "And" indicates that all the connected terms, conditions, provisions or events shall apply.
 2. "Or" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.
 3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.
- K. Delegation of Authority. Whenever a provision appears requiring the head of a Department or some other City Officer to do some act or perform some duty, it is to be construed to authorize the head of the Department or the City Officer to designate, delegate and obtain professional level subordinates to perform the required act or duty, unless the terms of the provision or section specify otherwise.
- L. The phrase "this Code" means the City of Fellsmere Land Development Code, adopted on March 15, 2007, and all subsequent amendments thereto.

Section 1.13 District Boundaries.

In the event that any uncertainty exists with respect to the intended boundaries of the various zoning districts as shown on the Official Zoning Maps, the City Council shall make the interpretation using the following rules:

- A. The zoning district boundaries are the center lines of the streets, alleys, waterways, and rights-of-way, unless otherwise indicated. Wherever designation of a boundary line on the Zoning Maps coincides with the location of a street, alley, waterway, or right-of-way, it shall be construed to be the boundary of such district.
- B. Where the zoning district boundaries do not coincide with the location of streets, alleys, waterways, and rights-of-way, but do coincide with lot lines, such lines shall be construed to be the boundary of such district.
- C. Where the zoning district boundaries do not coincide with the location of streets, alleys, waterways, and rights-of-way or lot lines, the zoning district boundary shall be determined by the use of the scale shown on the Zoning Maps.
- D. Zoning district boundaries indicated as approximately following city boundaries shall be construed as following those boundaries.
- E. All areas within the city which are under water and not shown as included within any district shall be subject to all the requirements of the district which immediately adjoins or abuts the water area. If the water area adjoins two (2) or more districts the boundaries of each district shall be construed to extend into the water area in a straight line as projected until they intersect a projected line from other district boundaries.
- F. Whenever any street, alley or other right-of-way is vacated by official action of the Council of the City of Fellsmere, the use district and area regulations governing the property abutting upon each side of such street, alley or public way shall be automatically extended to the center of such vacation and all area included within the vacation shall thereafter be subject to all appropriate regulations of the extended use districts. In all cases where land is built up by fill upon areas formerly under water, the use district and area regulations applying to the land immediately adjoining such built-up land shall be automatically extended thereto.

Section 1.14 Repeal of Prior Provisions

It is the intention that this Code shall replace and be substituted for Ordinance No. 92-14 which is hereby repealed, with the exception that Ordinance No. 92-14, Section 4, Exhibit "B", Zoning Map shall not be repealed; provided, however, it is not intended by this Code to repeal, abrogate or annul any ordinances or resolutions previously adopted relating to zoning classifications, land uses or conditional uses with respect to individual parcels of property, which ordinances or resolutions, together with the current official zoning map, in effect as of March 15, 2007, are hereby preserved.

In addition, to the above, the following ordinances and provisions are hereby repealed as of the effective date of this Code:

- A. Section 66-26 through 66-30, of the Code of Ordinances of the City of Fellsmere

Section 1.15 Effective Date; Enactment

This Code shall become effective on March 15, 2007. When any later provision of this Code is amended, however, the effective date of this Code means the effective date of such amendment for the purposes of deciding any question directly controlled by such amendment.

Section 1.16 Severability

- A. If any section, subsection, paragraph, sentence, clause, or phrase of this Code shall for any reason be held to be unconstitutional, inoperative, or void by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Code, which shall continue in full force and effect; it shall be construed that it is the legislative intent to adopt this Code without the unconstitutional, inoperative, or void section, subsection, paragraph, sentence, clause, or phrase.
- B. Furthermore, if any provision of this Code is held unconstitutional, inoperative, or void as applied to any person or property, such decision shall not apply to any other person or property.