

TOWN OF MICANOPY, FLORIDA

ORDINANCE 2004-04

BEFORE THE TOWN COMMISSION

**AN ORDINANCE OF THE TOWN OF MICANOPY, FLORIDA;
REPEALING ARTICLE TWO OF THE TOWN OF MICANOPY LAND
DEVELOPMENT CODE, ADMINISTRATION; ADOPTING A NEW
ARTICLE TWO PROVIDING NEW ADMINISTRATIVE PROCEDURES
INCLUDING PROCEDURES FOR SITE PLAN REVIEW, SUBDIVISION
REVIEW, LOT SPLIT, SPECIAL PERMITS, BUILDING PERMITS,
AMENDING THE LAND DEVELOPMENT CODE AND
COMPREHENSIVE PLAN, QUASI-JUDICIAL HEARINGS, AND
ENFORCEMENT; REPEALING THE EXISTING SITE PLAN REVIEW
PROCEDURES IN ARTICLE 12 OF THE LAND DEVELOPMENT CODE;
REPEALING THE SPECIAL PERMIT PROCEDURES IN ARTICLE 17
OF THE LAND DEVELOPMENT CODE; REPEALING ORDINANCE
2004-10; PROVIDING INSTRUCTIONS TO THE CODIFIER;
PROVIDING AN EFFECTIVE DATE.**

WHEREAS, the Town of Micanopy has the homerule and statutory authority to adopt land development regulations including administrative procedures for implementing and enforcing those regulations; and

WHEREAS, the current administrative procedures in the Town of Micanopy Land Development Code do not set forth such procedures in a sufficiently clear and coherent manner; and

WHEREAS, it is in the public benefit to revise that existing administrative procedures to better achieve the desired land use goals of the Town and protect the due process rights of citizens; and

WHEREAS, the Town of Micanopy Planning Commission reviewed the proposed amended administrative procedures over the course of several regular meetings in 2003 and 2004, and provided a recommendation to the Town Commission.

NOW, THEREFORE, BE IT ORDAINED by the Town Commission of the Town of Micanopy, Florida:

Section 1. Repeal of prior regulations.

The existing Article 2, Article 12, and Article 17, of the Town of Micanopy Land Development Code are hereby repealed in their entirety. Also, Ordinance 2004-10 is hereby repealed.

Section 2. Adoption of New Administrative and Enforcement Procedures.

A new Article 2 of the Town of Micanopy Land Development Code is hereby adopted as set forth in Attachment A to this ordinance, which attachment is incorporated herein as if set forth here.

Section 3. References to Plan Board and Historic Preservation Board

Wherever any ordinance of the Town of Micanopy, including the Land Development Code, refers to the Plan Board or the Historic Preservation Board, the reference is hereby deemed to be a reference to the newly constituted Planning and Historic Preservation Board.

Section 4. Transition

The new Planning and Historic Preservation Board shall commence its existence on January 1, 2005. The existing Historic Preservation Board and Plan Board shall maintain the duties and authority given to them under the existing Town of Micanopy Land Development Code until January 1, 2005, at which time the Historic Preservation Board and Plan Board shall cease existence. Prior to January 1, 2005, the Town Commission shall receive applications for and appoint the members of the new Planning and Historic Preservation Board. Preference shall be given to current members of the Historic Preservation Board and Plan Board.

Section 5. Instructions to Codifier

The Codifier shall modify the Town of Micanopy Land Development Code as set forth herein.

Section 6. Effective Date.

This ordinance shall become effective upon adoption on second reading.

On first reading passed by a vote of _____ to _____ on the _____ day of _____, 2004.

On second reading passed by a vote of _____ to _____ on the _____ day of _____, 2004.

Michael Berkowitz, Mayor

Charles Kelley, Town Clerk

ATTACHMENT “A” TO ORDINANCE 2004-04

ARTICLE II

ADMINISTRATION AND ENFORCEMENT

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2.0 ADMINISTRATION AND ENFORCEMENT

2.1 GENERALLY

- A. *Purpose.* This Article sets forth the application and review procedures required for obtaining development orders, and certain types of permits. This Article also specifies the procedures for appealing decisions and seeking legislative action.
- B. *Deadline for filing applications.* Whenever in this Article there is a requirement that an application or other submittals be filed for review by a board or commission, such application or submittals must be submitted not less than 15 days prior to the meeting of the board or commission in order for the matter to be heard by the board or commission at its next meeting. When applications or other submittals are filed less than 15 days prior to the next meeting of the board or commission, the Town Planner shall have the discretion to either schedule the matter at the next meeting, or at the next meeting after that.
- C. *Withdrawal Of Applications.* An application for development review may be withdrawn at any time so long as no notice has been given that the application will be reviewed at a public hearing.
- D. *Effect of Denial or Withdrawal on Subsequent Applications.* No application for a rezoning or special permit shall be entertained within twelve months after the denial or withdrawal of a request for the same use for the same property. The Planning and Preservation Planning and Historic Preservation Board may waive this limitation upon a showing of good cause.
- E. *Amended Application.* Amendment of any application by the applicant may be permitted up to ten days prior to the public hearing, provided the amendment shall not make the case different from its description in the notice for public hearing. Otherwise, the matter shall be re-noticed at the expense of the applicant.

2.2 SITE PLAN REVIEW

- A. *When Site Plan Review Required.* Site plan review is required for all development as defined in Article XX of this Code, except for the following:
 - (1) Subdivision of land.
 - (2) Construction of a single family home.
 - (3) Tree removal not part of other development requiring site plan review.
 - (4) Erection of a sign not part of other development requiring site plan review.

- (5) Alteration of a historic or other structure where such alteration does not create the need for additional parking or other modifications to the site.
- B. *Existing Site Plans.* Where development requiring site plan review is proposed on a site governed by an approved site plan, the development shall be reviewed as an amendment to the existing site plan and shall be subject to the same site plan review procedures set forth herein.
- C. *Pre-Application Conference.* Prior to filing for site plan review, the developer shall meet with the Town Planner to discuss the development review process and to be informed of which staff members to confer with about the application. No person may rely upon any comment concerning a proposed site plan, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.
- D. *Review Of Concept Plans.* All site plans must be submitted to concept review as follows:
- (1) The developer shall file a completed application and a Concept Plan as a prerequisite to obtaining concept review.
 - (2) Within 5 working days of receipt of an application and Concept Plan, the Town Planner shall:
 - (a) Determine that the submittals are incomplete and inform the developer in writing as to the deficiencies. The developer may submit an amended application within 30 working days without payment of a re-application fee, but, if more than 30 working days have elapsed, must thereafter re-initiate the application and pay an additional fee; or,
 - (b) Determine that the submittals are complete and proceed with the following procedures.
 - (3) The proposal shall be placed on the agenda of the next meeting of the Planning and Historic Preservation Board that allows the giving of required notice.
 - (4) The Planning and Historic Preservation Board shall consider:
 - (a) Characteristics of the site and surrounding area, including important natural and man-made features, the size and accessibility of the site, and surrounding land uses.

- (b) Whether the concurrency requirements of Micanopy Comprehensive Plan and this Code could be met if the development were built.
 - (c) The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system, including trails; the approximate total ground coverage of paved areas and structures; and, types of water and sewage treatment systems.
 - (d) Conformity of the proposed development with the Comprehensive Plan, this Code and other applicable regulations.
 - (e) Applicable regulations, review procedures, and submission requirements.
 - (f) Concerns and desires of surrounding landowners and other affected persons.
 - (g) Other applicable factors and criteria prescribed by the Comprehensive Plan, this Code, or other law.
- (5) The Planning and Historic Preservation Board shall issue no order, finding or other indication of approval or disapproval of the proposal, and no person may rely upon any comment concerning the proposal, or any expression of any nature about the proposal, made by any person during the concept review process as a representation or implication that the particular proposal will be ultimately approved or disapproved in any form.
 - (6) Where the site plan is for very minor development, the Town Planner may waive the requirement for concept plan review by the Planning and Historic Preservation Board.

E. *Review Of Preliminary Site Plans.*

- (1) The developer shall, within 6 months after completion of concept review, submit a Preliminary Site Plan to the Town Planner. If more than 6 months elapse, the developer must re-submit the plan for concept review.

- (2) Within 5 working days of receipt of a Preliminary Site Plan, the Town Planner shall:
 - (a) Determine that the information is incomplete and inform the developer in writing of the deficiencies. The developer may submit an amended plan within 30 working days without payment of an additional fee, but, if more than 30 days have elapsed, must thereafter initiate a new application and pay a new fee; or
 - (b) Determine that the plan is complete and proceed with the following procedures.
- (3) The Town Planner may, with Town Commission approval, send a copy of the Preliminary Site Plan to the Town Engineer who shall, within 10 working days of receipt of the plan, prepare a report on the development's compliance with the Town's engineering and other technical standards.
- (4) On the earliest available date that allows the giving of required notice, the Planning and Historic Preservation Board shall conduct a quasi-judicial hearing on the Preliminary Site Plan to determine whether the plan satisfies the requirements of this Code.
- (5) The Planning and Historic Preservation Board shall approve the Preliminary Site Plan, approve the Preliminary Site Plan with conditions, or deny the Preliminary Site Plan.
- (6) The Planning and Historic Preservation Board may at the same hearing approve the Final Site Plan if the Final Site Plan was submitted by the developer for approval concurrent with Preliminary Site Plan review.

F. *Review Of Final Site Plans.*

- (1) The developer shall submit a Final Site Plan for review within 6 months of the date of approval of the Preliminary Site Plan.
- (2) On the earliest available date that allows the giving of required notice, the Planning and Historic Preservation Board shall conduct a quasi-judicial hearing on the Final Site Plan. The issue shall be solely whether the Final Site Plan conforms to the Preliminary Site Plan and conditions for final approval placed thereon.

G. *Review of Planning and Historic Preservation Board Decision.* Review of the decision of the Planning and Historic Preservation Board on a Preliminary or Final Site Plan may be requested as provided in Section 2.13 below. If no review

is requested, the decision of the Planning and Historic Preservation Board shall be final. It is the intent that such review be a prerequisite to certiorari review by a circuit court.

H. *Standards.* No site plan shall be approved unless and until the Planning and Historic Preservation Board has made findings that the plan will meet the following criteria:

- (1) Enhance and protect the public health, safety and welfare of the Town of Micanopy.
- (2) Result in the least possible detrimental impact to the site and surrounding areas and not reduce the safety, light or general convenience of neighboring developments.
- (3) Assure safe and convenient ingress to and egress from the property and internal circulation, including access of service and emergency vehicles and design of off-street parking and loading areas.
- (4) Provide safe location and orderly arrangements and spacing of all buildings and structures.
- (5) Minimize environmental damages caused by needless destruction of natural vegetation and natural features on the site.
- (6) Provide for needed utilities, including fire hydrants, assure that the cost to the public in supplying connection points is reasonably minimized, and assure that safe and reasonable traffic circulation patterns are provided for garbage trucks and public safety vehicles of all types.
- (7) Provide means of minimizing unreasonable intrusions of noise, light, odor, dust and other such annoyances into the privacy, quiet and habitability of surrounding areas.
- (8) Assure that external and internal signs comply with the Town's sign regulations and that reasonable measures are taken in their placement and size to eliminate traffic hazards caused by sight obstructions in entering, leaving or passing by the area.
- (9) Assure that external and internal outdoor lighting types and placement do not constitute a hazard to traffic and do not unreasonably intrude into the privacy and habitability of surrounding areas.

- (10) Make reasonable provision for recreation facilities and open space to meet the needs of the proposed development, taking advantage of the availability of community open space and recreation facilities.
- (11) Indicate that reasonable consideration has been given to the proximity of public facilities such as fire and sheriff's stations, schools and health care facilities and to the desirability of designating sites for such facilities within the site.
- (12) The comments of the owners of adjacent properties and other neighbors of the proposed development plan have been taken into account and where reasonable comments have been made, the Planning and Historic Preservation Board, at a public hearing, may incorporate any reasonable comments into the design of the development plan to decrease any adverse impact the development plan may have on adjoining properties and the neighborhood in which it is located.
- (13) The development plan conforms in all regards with the management plan approved by the St. Johns River Water Management District for such basin.
- (14) The development plan conforms in all regards to the requirements of the Town of Micanopy Land Development Code and Comprehensive Plan.

I. *Submittals.*

- (1) **Application.** Applications for site plan review shall be available from the Town Planner. A completed application shall be signed by all owners, or their agent, of the property subject to the proposal, and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation, and embossed with the corporate seal.
- (2) **General Plan Requirements.** All Preliminary and Final Site Plans submitted pursuant to this Code shall conform to the following standards:
 - (a) All plans shall be drawn to a scale a scale of 1 inch equals 100 feet, unless the Planning and Historic Preservation Board or Town Planner determines that a different scale is sufficient or necessary for proper review of the proposal.

- (b) The sheet size shall be 24 inches by thirty-six 36 inches. A 3/4-inch margin shall be provided on all sides except for the left binding side where a two-inch margin shall be provided.
- (c) If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each.
- (d) The front cover sheet of each plan shall include:
 - 1. A general vicinity or location map drawn to scale (both stated and graphic) showing the position of the proposed development in the section(s), township and range, together with the principal roads, city limits, and/or other pertinent orientation information.
 - 2. A complete legal description of the property.
 - 3. The name, address and telephone number of the owner(s) of the property. Where a corporation or company is the owner of the property, the name and address of the president and secretary of the entity shall be shown.
 - 4. Name, business address, and telephone number of those individuals responsible for the preparation of the drawing(s).
 - 5. Each sheet shall contain a title block with the name of the development, stated and graphic scale, a north arrow, and date.
 - 6. The plan shall show the boundaries of the property with a metes and bounds description reference to section, township and range, tied to a section or quarter-section or subdivision name and lot number(s).
 - 7. The area of the property shown in square feet and acres.
- (e) Eight copies of the submittals shall be required.
- (f) Unless a format is specifically called for below, the information required may be presented textually, graphically, or on a map, plan, aerial photograph, or by other means, whichever most clearly conveys the required information. It is the responsibility of the developer to submit the information in a form that allows ready

determination of whether the requirements of this Code have been met.

(3) Concept Plan. Each Concept Plan shall show:

(a) Existing Conditions

1. The location of existing property or right-of-way lines both for private and public property, streets, railroads, buildings, transmission lines, sewers, bridges, culverts, drain pipes, water mains, fire hydrants, and any public or private easements.
2. Any land rendered unusable for development purposes by deed restrictions or other legally enforceable limitations.
3. Topography of the site with contour lines at two-foot intervals and showing all water courses, water bodies, floodplains, wetlands, important natural features and wildlife areas, soil types, vegetative cover and any known historic or archaeological resources.
4. The parcel's existing land use and zoning designations.
5. A depiction of the abutting property within 400 feet of the proposal, not including public right of way in the measurement, showing land uses, locations of principal structures and major landscape features, densities of residential use, and traffic circulation systems.

(b) Proposed Development Activities And Design

1. The approximate location and intensity or density of the proposed development.
2. A general parking and circulation plan, showing points of ingress to and egress from the site, pedestrian ways, and bicycle paths.
3. Proposed drainage systems.
4. Proposed location and sizing of potable water and waste water facilities to serve the proposed development,

including required improvements or extensions of existing off-site facilities.

5. Proposed open space areas and types of activities proposed to be permitted on them.
6. Lands to be dedicated or transferred to a public or private entity and the purposes for which the lands will be held and used.
7. A description of how the plan mitigates or avoids potential conflicts between land uses.

(4) Preliminary Site Plan. A Preliminary Site Plan shall include the following information, where applicable. If any of the following items are inapplicable to a proposed development, such item may be omitted, provided the applicant identifies in writing any missing item and includes a brief explanation of why it is inapplicable. The Planning and Historic Preservation Board may nonetheless require that missing information be provided if the Board finds it applicable.

(a) A legal description of the property under review for site plan approval.

(b) Site conditions information, including:

1. A topographic map of the site of a scale a scale of 1 inch equaling no more than 100, showing at least five-foot contours in residential zones and two-foot contours in the 100 year flood prone areas.
2. Generalized soil types in the project area and in the surrounding area, if significantly different from the project area.
3. A scaled plan indicating the type and location of existing vegetation, including a written statement indicating the approximate size and location of major tree groupings as described in Article XV. Aerial and on-site photographs may be used to show vegetation.
4. A preliminary sedimentation control plan shall be submitted indicating the manner by which on-site generated sediment will be retained. The plan shall assure that

sediment volume from the development leaving the property shall not be increased above the level existent prior to the beginning of construction activity.

- (c) A site condition map including:
1. A general location map showing the relationship of the site to such external facilities as streets, residential areas, commercial facilities and recreation/open space areas.
 2. The location of all existing public streets, rights-of-way, easements and other reservations of the land in the area of the property in question, means of ingress and egress to all such properties, off-street parking, loading and service areas, if any, for or on such properties and any screening or buffers on such properties and the nature and type thereof.
 3. The location, size and capacity of all existing utilities, including existing fire hydrant locations.
 4. The location of all water holding or carrying facilities, natural or man-made, including creeks, ponds, sinkholes, ditches, culverts, storm sewers, and the direction of surface flow.
- (d) A dimensional site development plan of professional quality drawn at a suitable scale, but not smaller than one inch equals 60 feet. A smaller scale for very large land area (over 40 acres in size) may be accepted upon approval of the Planning and Historic Preservation Board showing:
1. The name of the person or firm who prepared the plans, the name of the developer, the name of the proposed project or development, a north arrow and date.
 2. The location of all proposed streets, driveways or other facilities designed to accommodate vehicular movement in the development and points of ingress and egress, parking areas including the exact number of spaces and loading and service areas (location of dumpsters and any utility buildings) and a traffic impact analysis of projected trip generation, including methods of circulation for the development.

3. The location and dimensions of all proposed buildings and structures to be included in the development:
 - A. For all development, indicating the gross area of all buildings.
 - B. For residential development, indicating the exact number of dwelling units classified by numbers of bedrooms (number of one-bedroom units, number of two-bedroom units, etc.).
4. Dimensions of all yard setbacks and open spaces.
5. Location of all open space and recreation areas, planned with attention to their adequacy in terms of size and placement, their effect on privacy of adjacent living areas and their relationship to community-wide open spaces and recreation facilities.
6. The manner of drainage of the property, showing the manner of drainage of all impervious surfaces (including roofs of buildings) and all green areas, including all control devices such as storm sewers and retention or detention facilities.
7. The percentage of the site that will be covered by buildings and structures and the percentage that will be covered by streets, drives, parking and loading areas.
8. A grading plan including all finished elevations and contours.
9. The exact location of all public use easements.
10. The exact location of all utility services, including connection points to the main systems and fire hydrant locations.
11. A landscape plan with written comments from the Town Tree Preservation Committee.
12. A drainage plan including depth dimensions, capacities, cross-section dimensions and statement of ratio or percentage of side slope angle of retention or detention

facilities. Slope angle to depth of facility must meet St. Johns River Water Management District specifications.

13. The size, location and type of all signage.
 14. The size, location, orientation, photometrics and intensity of all exterior lighting fixtures and devices.
 15. Architectural elevations of all buildings and structures.
 16. A development timetable, if project is to be constructed in phases.
 17. A sedimentation plan indicating the manner by which anticipated sediment and debris, generated within the confines of the development, will be retained on site (examples: hay bales, sediment traps, berms, etc., as appropriate to the situation).
 18. Information about the type and location of existing vegetation, including a written statement indicating the approximate size and location of major tree groupings and all individual trees with a trunk diameter of 12 inches or more at a point 4 ½ feet above ground level. Aerial and on-site photographs may be used to show vegetation.
- (5) Final Site Plan. A Final Site Plan shall include the information required in a Preliminary Site Plan plus the following additional or more detailed information:
- (a) Restrictions pertaining to the type and use of existing or proposed improvements, waterways, open spaces, building lines, buffer strips and walls, and other restrictions of similar nature, shall require the establishment of restrictive covenants and such covenants shall be submitted with the Final Site Plan for recordation.
 - (b) Where the development includes private streets, ownership and maintenance association documents shall be submitted with the Final Site Plan and the dedication contained on the site plan shall clearly indicate the roads and maintenance responsibility to the association without recourse to the Town or any other public agency.

- (c) No man-made lake, pond, and other man-made body of water, excluding retention/detention areas shown on the Final Site Plan, shall not be shown as dedicated to the public unless approved by the Town.

2.3 SUBDIVISION REVIEW

- A. *Pre-Application Conference.* Prior to filing for subdivision review, the developer shall meet with the Town Planner to discuss the development review process and to be informed of which staff members to confer with about the application. No person may rely upon any comment concerning a proposed subdivision, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.
- B. *Concept Review.* All subdivisions shall be submitted to Concept Review as follows:
 - (1) The developer shall file a completed application and a Design Plat as a prerequisite to obtaining Concept Review.
 - (2) Within 5 working days of receipt of an application and Design Plat, the Town Planner shall:
 - (a) Determine that the submittals are incomplete and inform the developer in writing as to the deficiencies. The developer may submit an amended application within 30 working days without payment of a re-application fee, but, if more than 30 working days have elapsed, must thereafter re-initiate the application and pay an additional fee; or,
 - (b) Determine that the submittals are complete and proceed with the following procedures.
 - (3) The proposal shall be placed on the agenda of the next meeting of the Planning and Historic Preservation Board that allows the giving of required notice.
 - (4) A copy of the Design Plat and notice of the time and date of the Concept Review shall be delivered to Town Attorney and Town Engineer who shall review the proposal and submit comments, if any, in writing to the Town Planner, at the Concept Review.
 - (5) The Planning and Historic Preservation Board shall consider:

- (a) Characteristics of the site and surrounding area, including important natural and man-made features, the size and accessibility of the site, and surrounding land uses.
 - (b) Whether the concurrency requirements of the Micanopy Comprehensive Plan and this Code could be met if the development were built.
 - (c) The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system, including trails; the approximate total ground coverage of paved areas and structures; and, types of water and sewage treatment systems.
 - (d) Conformity of the proposed development with the Comprehensive Plan, this Code and other applicable regulations.
 - (e) Applicable regulations, review procedures, and submission requirements.
 - (f) Concerns and desires of surrounding landowners and other affected persons.
 - (g) Other applicable factors and criteria prescribed by the Comprehensive Plan, this Code, or other law.
- (6) The Planning and Historic Preservation Board shall issue no order, finding or other indication of approval or disapproval of the proposal, and no person may rely upon any comment concerning the proposal, or any expression of any nature about the proposal, made by any person during the concept review process as a representation or implication that the particular proposal will be ultimately approved or disapproved in any form.

C. *Review Of Preliminary Plat.*

- (1) The developer shall, within 6 months after completion of Concept Review, submit a Preliminary Plat to the Town Planner. If more than six 6 months elapse, the developer must re-submit the plan for Concept Review.

- (2) Within 5 working days of receipt of a Preliminary Plat, the Town Planner shall:
 - (a) Determine that the information is incomplete and inform the developer in writing of the deficiencies. The developer may submit an amended plat within 30 working days without payment of an additional fee, but, if more than 30 days have elapsed, must thereafter initiate a new application and pay a new fee; or
 - (b) Determine that the plat is complete and proceed with the following procedures.
 - (3) The Town Planner shall send a copy of the Preliminary Plat to the Town Engineer who shall, within ten working days of receipt of the plan, prepare a report on the development's compliance with the Town's engineering and other technical standards.
 - (4) Within 10 working days after the Town Planner receives the Town Engineer's report, the Town Planner shall issue a written report setting forth a recommendation to the Planning and Historic Preservation Board.
 - (5) On the earliest available date that allows the giving of required notice, the Planning and Historic Preservation Board shall conduct a legislative hearing on the Preliminary Plat and prepare a written recommendation to the Town Commission as to whether the preliminary plat satisfies the requirements of this Code.
 - (6) The application shall thereafter be placed on the next available agenda of the Town Commission allowing for the giving of required notice. The Town Commission shall hold a quasi-judicial hearing on whether the preliminary plat satisfies the requirements of this Code.
 - (7) The Town Commission shall approve the preliminary plat, approve the preliminary plat with conditions, or deny the preliminary plat.
- D. *Construction Plans.* The developer shall, within 6 months of approval of the preliminary plat and prior to submission of the final plat, submit 2 sets of construction plans to the Town Planner. The Town Planner shall convey one set of the completed construction plans to Town Engineer for review. If the Town Engineer finds that the construction plans are consistent with the approved preliminary plat and with all applicable standards and specifications, the Town Engineer submit a letter to that effect to the Town Planner. If the construction plans are not consistent with the design plat as approved by the Town

Commission or do not comply with all standards and specifications, the Town Engineer shall notify the Town Planner of:

- (1) Conditional construction plan approval, subject to any necessary modifications which shall be indicated on the plans or attached to it in writing; or
- (2) Disapproval of the construction plans or any portion thereof, with a written indication of the reasons for such disapproval.

In any event, the Town Planner shall set the matter on the next available Planning and Historic Preservation Board agenda for final action on the construction plans.

E. *Review Of Final Plat.*

- (1) After the construction plans have been approved or conditionally approved by the Planning and Historic Preservation Board, the developer shall submit a Final Plat for review within one year of such approval or disapproval:
- (2) The Final Plat shall thereafter be placed on the next available agenda of the Town Commission allowing for the giving of required notice. The Town Commission shall approve the Final Plat if it conforms to the Preliminary Plat and Construction Plans.
- (3) Upon approval of the Final Plat by the Town Commission, the original Mylar or stable base film tracing of the Final Plat along with any required covenants or deed restrictions shall be recorded with the Clerk of the Circuit Court for Alachua County, by the subdivider, with all recording fees paid by the subdivider. Upon recording the approved Final Plat, a copy of any private covenants or deed restrictions required to be recorded, and a copy of the recorded plat shall be provided to the Town Planner for inclusion in the Town records.

F. *Security for Construction and Maintenance of Public Improvements.*

- (1) Except as otherwise provided herein, no final plat of any subdivision shall be approved by the Town of Micanopy unless a surety bond is filed with the Town and is executed by a surety company authorized to do business in the State of Florida. Such bond shall be conditioned to secure the construction and completion of the improvements required under the Town of Micanopy Land Development Code in a satisfactory manner within 12 months from final plat approval and any extension of such period approved by the Town Commission. Such surety bond shall be

enforceable by and payable to the Town in a sum at least equal to 120 percent of the total cost of the required improvements provided in said subdivision as estimated by the subdivider's engineer and verified and approved by the Town street superintendent.

- (2) Such surety bond shall be first approved by the Town Attorney prior to its submission with the proposed final plat to the Town Commission for approval, and such surety bond shall be in the following form to be executed by both the subdivider and the party or parties with whom such subdivider has contracted to perform the work and construct the improvements.

SUBDIVISION BOND

WHEREAS _____ is the subdivider of that certain subdivision lying in Micanopy, Florida, known as _____ and has entered into a contract with _____ to do and perform certain work and improvements in connection therewith as required by the Town of Micanopy, Florida, which contract, plans, and specifications are by this reference made a part of this instrument, and

WHEREAS, the said _____ as subdivider and _____ as contractor do hereby enter into an agreement with Micanopy, Florida, wherein they jointly and severally promise to complete the development of said subdivision according to the plans and specifications and in full conformity with the Land Development Code of the Town of Micanopy, Florida.

NOW, THEREFORE, the said _____ as subdivider and the said _____ as contractor hereafter jointly and severally referred to as Principals, and _____ a Surety Corporation organized under the laws of Florida, as Surety, as held and firmly bound unto Micanopy, Florida, in the penal sum of \$_____ (representing 120% of the Town's approved estimate of the cost of the improvements), lawful money of the United States, the payment of which well and truly to be made, we hereby bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, the condition of this obligation is such that, if the improvements to be made as shown on subdivision plans and specifications prepared by _____ dated _____ for a subdivision called

_____ shall be completed within twelve (12) months from the date hereof or any authorized extension thereof, of which Surety now waives notice, and the same is done in accordance with and in full compliance of the subdivision requirements of the Town of Micanopy, Florida, and the documents and specifications pertaining to this subdivision as approved by the Planning and Historic Preservation Board then this obligation shall be null and void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the Principal and Surety have caused this instrument to be executed this ____ day of _____, A.D., 20____.

PRINCIPAL

1. SUBDIVIDER, _____
(Name of Subdivider)

By _____
(Title)

ATTEST WITH CORPORATE SEAL:

By _____

2. CONTRACTOR, _____
(Name of Contractor)

By _____
(Title)

ATTEST WITH CORPORATE SEAL:

By _____

3. SURETY, _____
(Name of Surety Company)

By _____
Attorney in Fact

Resident Agent

(Each Principal shall fully execute the bond in the appropriate manner by duly authorized persons whether it be a corporation, a partnership or otherwise.) (This Bond, when fully executed, must be approved by the Town Attorney prior to submission to the Town Commission.)

- (3) In lieu of the surety bond required above, the subdivider may propose other methods of surety that may be accepted by the Town Commission upon recommendation by the Town Attorney.
- (4) In determining the cost of the improvements for which a construction bond or other such security is required, improvements otherwise covered by a separate bond or security arrangement between the subdivider and the Town and those improvements already constructed and approved by the Town street superintendent shall not be included.
- (5) In lieu of providing security, a developer may proceed with installation of subdivision improvements upon acceptance and approval of a final plat by the Town Commission, which approval shall be conditioned upon the full completion of said subdivision improvements within 2 years and in full accordance with approved plans and specifications and the ordinances of the Town. Such plats shall not be recorded, but shall be retained by the Town Planner until the Town Commission has certified that all required improvements have been completed in accordance with approved plans, specifications and ordinances of the Town.

G. *Maintenance.* Under any arrangement for subdivision development within the Town, the subdivider is obligated to the Town for any necessary repair of all required improvements under the ordinances of the Town of Micanopy, Florida for the period of one year following acceptance for maintenance. During such 1-year period the subdivider must provide the Town with a surety bond or other acceptable security, in an amount equal to 15 percent of the costs of the required subdivision improvements, which may be used by the Town to pay the costs of any necessary repairs and maintenance on such subdivision improvements during such 1 year period. Interest earned on all such cash deposits with the Town shall be for the account and to the credit of the person or persons making such deposit.

H. *Private Improvements.* In those developments where lands and improvements remain under private common ownership, instruments relating to the use and maintenance of such areas and improvements shall be required. The Town of Micanopy may require the establishment of an appropriate entity and the execution and recording of any appropriate legal instruments necessary to insure the maintenance, protection, and preservation of common areas designated on the plat. The title to all land and improvements that are shown on the plat as common

areas, private streets, etc., shall be held and continue to be held so as to insure their proper maintenance and care and to permit and assure their continued use as intended in the approved plat. Such instruments shall include means legally enforceable by the Town, the subdivider and his successors to guarantee payment of such sums of money as are necessary for such maintenance; and all conveyances or transfers of any interest in any of the property of such development shall be legally encumbered of record so as to guarantee the continued use of such common areas and streets as contemplated by the plat and the guarantee of the payment of the cost of such maintenance.

I. *Submittals.*

- (1) Design Plat. The Design Plat shall contain the following data:
 - (a) Approximate tract boundaries.
 - (b) Approximate location with respect to section lines.
 - (c) Streets on and adjacent to the tract.
 - (d) Proposed general street layout.
 - (e) Significant topographical and physical features.
 - (f) Generalized existing vegetation.
 - (g) Proposed general lot layout.
- (2) Preliminary Plat. The Preliminary Plat shall be drawn clearly and legibly at a scale of 1 inch equaling no more than 100 feet using a sheet size of 24 inches by 36 inches. If more than one sheet is required, an index map relating each sheet to the entire subdivision shall be shown on the first sheet. The Preliminary Plat shall be prepared by a land surveyor and shall contain the following information:
 - (a) Proposed name of the subdivision.
 - (b) Name and registration number of surveyor.
 - (c) Date of survey approval, north point (with bearing or azimuth reference clearly stated in the notes or legend), graphic and written scale, and space for revision dates.

- (d) Vicinity map showing location with respect to major streets and acreage of the subdivision.
- (e) Boundary line of the tract by bearings and distances.
- (f) Legal description of the tract to be subdivided.
- (g) Preliminary layout including streets, sidewalks, alleys and easements with dimensions and proposed street names, lot lines with approximate dimensions, land to be reserved or dedicated for public uses, and designation of any land to be used for purposes other than single-family dwellings.
- (h) Total number of lots.
- (i) The front building setback line for each lot.
- (j) An inscription stating "**NOT FOR FINAL RECORDING.**"
- (k) The name, address, and telephone number of the property owner and of any agent of the property owner involved in the subdivision of such property.
- (l) The names of owners of any unplatted abutting property and the approximate acreage of such property.
- (m) The exact locations, names, and widths of all existing streets, alleys, and recorded easements within and immediately adjoining the subdivided lands.
- (n) The location and a general description of any utilities facility on the subdivision tract.
- (o) The invert elevation of existing and proposed sewers.
- (p) The location and size of existing improvements on the subdivision tract.
- (q) The zoning and land use plan designations of lands within the subdivision tract and of abutting property.
- (r) Natural features on the subdivision tract, including lakes, swamps, water courses, and lands within the flood plain and flood channel as shown on the Town's adopted flood control maps.

- (s) The location and types of all tree clusters or copses on the subdivision tract, a designation of which tree clusters or copses are proposed to be removed, and a particular identification of any tree with a trunk diameter of 24 inches or larger, measured 4 ½ feet above ground level, located in or within 15 feet of any proposed right-of-way.
 - (t) Surface drainage, with direction of flow, and an indication of the proposed method of disposition.
 - (u) A soils survey map.
 - (v) A generalized statement outlining, as far as is known, the subsurface conditions of the subdivision tract, including subsurface soil, rock, and ground-water conditions, the location and results of any soil permeability tests, and the location and extent of any muck pockets.
 - (w) A topographic map of the subdivision tract prepared by a land surveyor, with maximum intervals of one foot where overall slopes are no more than two percent, two feet where slopes are between 2 and 10 percent, and 5 feet where slopes are ten percent or greater, based on National Geodetic Survey datum.
 - (x) If the proposed subdivision contains land located within the flood plain as shown on the flood control maps of the St. Johns River Water Management District, the subdivider shall be required to submit topographic information for areas adjoining sides of the channel, cross-sections for land to be occupied by the proposed development, highwater information, boundaries of the land within the flood plain, and other pertinent information.
- (3) Construction Plans. Plans for the proposed subdivision improvements shall have a sheet size of 24 inches by 36 inches unless another size is approved by the Town Planner, and shall show the proposed locations, sizes, types, grades, and general design features of each facility, and shall be based upon reliable field data. These drawings shall include the following information:
- (a) The topography of the subdivision with a maximum contour interval of one foot, based on National Geodetic Survey datum. This map shall be prepared by a land surveyor.

- (b) The plan and profile of each proposed street centerline (indicating the existing ground surfaces and proposed street grade surface including extensions for a distance of 300 feet beyond the tract boundary) at a horizontal scale equal to the horizontal scale of the subdivision plat.
 - (c) A cross-section of each proposed street, at a scale of ten feet or less to the inch, showing the width of pavements, the location and width of any sidewalks, where required, and rights-of-way.
 - (d) The Plans and profiles of proposed water distribution systems, sanitary sewers, and storm water drainage sewers and other drainage ways, where required, at the horizontal scale of the subdivision plat and a vertical scale of 1/10th of the horizontal scale, with grades and sizes indicated.
- (4) Final Plat. The Final Plat shall be in accordance with the requirements of this Article, Chapter 177, Florida Statutes, and any other applicable statutes and ordinances. The final plat shall be legibly drawn at a scale of at least one inch equals 100 feet using a sheet size of 24 inches by 36 inches, reserving a three-inch binding margin on the left hand side and a one-inch margin on the other three sides. If more than one sheet is required, an index map relating each sheet to the entire subdivision shall be shown on the first sheet. The Final Plat shall contain, in addition to the information required by Chapter 177, Florida Statutes, the following:
- (a) The exact boundary line of the tract.
 - (b) A vicinity map showing the location and acreage of the lands subdivided, in relationship to the Town of Micanopy.
 - (c) The location of all water courses, lakes, and swamps within the subdivided lands and any part of such lands within the flood channel or flood plain as shown on the St. Johns River Water Management District's flood control maps.
 - (d) The building setback lines for each lot and all easements.

2.4 LOT SPLIT

- A. *Definition.* A “lot split” is the subdivision of a single lot or parcel of land into two lots or parcels, or the reconfiguration of two or more lots or parcels to create no more than two lots or parcels.

- B. *Submittals.* An applicant for a lot split shall submit the following:
- (1) An application form provided by the Town Planner.
 - (2) Eight paper copies of the proposed lot split.
 - (3) A statement indicating whether water and/or sanitary sewer service is available to the property.
 - (4) Land descriptions and acreage or square footage of the original and proposed lots and a scaled drawing showing the intended division shall be prepared by a professional land surveyor registered in the State of Florida. In the event a lot contains any principal or accessory structures, a survey showing the structures on the lot shall accompany the application.
- C. *Standards.* All lot splits shall conform to the following standards:
- (1) Each proposed lot must conform to the requirements of this Code including dimensional requirements.
 - (2) Each lot shall abut and have access to a public road for the required minimum lot width for the zoning district where the lots are located.
- D. *Review Procedure.* The Town Planner shall prepare a report on the proposed Lot Split and place the application on the next available agenda of the Planning and Historic Preservation Board allowing for proper notice.
- E. *Recordation.* The Town shall keep a record of all approved Lot Splits.
- F. *Restriction.* No further division of the land covered by a lot split shall be permitted under this section. Further subdivision of such land shall be pursuant to the subdivision requirements in this Article.
- G. *Review of Planning and Historic Preservation Board Decision.* Review of the decision of the Planning and Historic Preservation Board on a Lot Split may be requested as provided in Section 2.13 below. If no review is requested, the decision of the Planning and Historic Preservation Board shall be final. It is the intent that such review be a prerequisite to certiorari review by a circuit court.

2.5 SPECIAL PERMITS

- A. *Generally.* Where the use regulations of this Code provide that a given use must be authorized by a Special Permit, the procedures in this section shall be followed.

- B. *Application and Submittals.* An applications shall be filed with the Town Planner on a form available from the Town Planner. In addition, a Site Plan meeting the requirements of this Article shall be submitted, unless the Planning and Historic Preservation Board specifically finds that due to the nature of the special use requested, a site plan is not required.
- C. *Review by Planning and Historic Preservation Board.* The Town Planner shall place the application on the next available agenda of the Planning and Historic Preservation Board allowing time for notice and staff review of the application. The Planning and Historic Preservation Board, with Town Commission approval, may refer the matter to the Town Engineer for a report on whether the proposal meets the requirements of this Code. The Planning and Historic Preservation Board shall hold a quasi-judicial hearing on the matter pursuant to the procedures set forth at Section 2.10 of this Article. The Planning and Historic Preservation Board may approve the application, approve the application with conditions, or deny the application.
- D. *Standards.* The Planning and Historic Preservation Board shall apply the following standards in the review of special permit applications, in addition to any specific standards in this Code for the particular special use:
- (1) That the proposed use and associated development is consistent with the Town of Micanopy Comprehensive Plan, and complies with all required regulations and standards of this Land Development Code and other applicable regulations.
 - (2) That the proposed use or development will have general compatibility and harmony with the uses and structures on adjacent and nearby properties.
 - (3) That necessary public infrastructure is available to the proposed site and that the requirements of concurrency management have been fulfilled by the proposed use or development.
 - (4) That the proposed use or development will have screening and buffers of such dimension, type and character to improve the compatibility and harmony with adjacent and nearby properties.
- E. *Review of Planning and Historic Preservation Board Decision.* Review of the decision of the Planning and Historic Preservation Board on a Special Permit may be requested as provided in Section 2.13 below. If no review is requested, the decision of the Planning and Historic Preservation Board shall be final. It is the intent that such review be a prerequisite to cetiorari review by a circuit court.

2.6 VARIANCES

A. *Generally*

- (1) The Planning and Historic Preservation Board may grant a variance from the strict application of any provision of this Code, except where prohibited by state law such as in the case of use variances and concurrency management.
- (2) Any person desiring to undertake a development activity not in conformance with this Code may apply for a variance in conjunction with the application for site plan review or other development approval. A development activity that might otherwise be approved by the Town Planner must be approved by the Planning and Historic Preservation Board if a variance is sought. The variance shall be granted or denied in conjunction with the application for development review.

B. *Procedures*

- (1) An application for a variance shall be filed with the Town Planner on a form available from the Town Planner.
- (2) The Town Planner shall place the application on the next available agenda of the Planning and Historic Preservation Board allowing time for notice and staff review of the application.
- (3) The Planning and Historic Preservation Board shall hold a quasi-judicial hearing on the matter pursuant to the procedures set forth at Section 2.10 of this Article.
- (4) The decision of the Planning and Historic Preservation Board on a variance shall be final. Review of the Planning and Historic Preservation Board decision may be sought pursuant to Section 2.13 below.

C. *Limitations On Granting Variances*

- (1) The Planning and Historic Preservation Board shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the Board shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the Board shall make the required findings based on the cumulative effect of granting the variance to all who may apply.

- (2) The Planning and Historic Preservation Board shall not vary the requirements of any provision of this Code unless it makes a positive finding, based on substantial competent evidence, on each of the following:
 - (a) There are practical or economic difficulties in carrying out the strict letter of the regulation.
 - (b) The variance request is not based exclusively upon a desire to reduce the cost of developing the site.
 - (c) The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire, or other hazard to the public.
 - (d) The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.
 - (e) The effect of the proposed variance is in harmony with the general intent of this Code and the specific intent of the relevant subject area(s) of the Code.
- (3) In granting a variance, the Planning and Historic Preservation Board may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to allow a positive finding to be made on any of the foregoing factors, or to minimize the injurious effect of the variance.

2.7 PROCEDURE FOR AMENDING THIS CODE OR THE COMPREHENSIVE PLAN

- A. *State Law Controlling.* The procedures in this section shall be followed in amending this Code and the Comprehensive Plan. This section supplements the mandatory requirements of state law, which must be adhered to in all respects.
- B. *Application.* Any person, board or agency may apply to the Town Planner to amend this Code or the Comprehensive Plan.
- C. *Planning and Historic Preservation Board Review and Recommendation.* The Planning and Historic Preservation Board shall hold a legislative hearing on each application to amend this Code or the Comprehensive Plan and thereafter submit to the Town Commission a written recommendation which:
 - (1) Identifies any provisions of the Code, Comprehensive Plan, or other law relating to the proposed change and describes how the proposal relates to them.
 - (2) States factual and policy considerations pertaining to the recommendation.

- D. *Decision By Town Commission.* The Town Commission shall hold a legislative hearing on the proposed amendment and may enact or reject the proposal, or enact a modified proposal that is within the scope of matters properly noticed for hearing.

2.8 ZONING MAP AMENDMENTS

A. *Generally.*

- (1) The Town Commission may amend the zoning map pursuant to the provisions set forth in this Section.
- (2) An application for a land use map amendment may be filed pursuant to Section 2.7 above along with an application for a zoning map amendment, but the land use map amendment must be approved by the Town Commission prior to Town Commission action on the zoning map amendment. If the land use map amendment requires regional or state review, the zoning map amendment approval shall be made contingent upon final approval and adoption of the necessary land use map amendment.

B. *Procedures*

- (1) An application for a zoning map amendment shall be filed with the Town Planner on a form available from the Town Planner.
- (2) The Town Planner shall place the application on the next available agenda of the Planning and Historic Preservation Board allowing time for notice and staff review of the application.
- (3) The Planning and Historic Preservation Board shall hold a legislative hearing on the matter pursuant to the procedures set forth at Section 2.11 of this Article.
- (4) The Planning and Historic Preservation Board shall prepare a written recommendation to the Town Commission with regard to the proposed map amendment.
- (5) The Town Planner shall then place the application on the next available agenda of the Town Commission allowing time for notice and any necessary additional staff review of the application. Notice shall be provided as required in Chapter 166, Florida Statutes, and as may be required elsewhere in this Code.
- (6) The Town Commission shall hold a quasi-judicial hearing on the matter pursuant to the procedures set forth at Section 2.10 of this Article.

C. *Standards*

- (1) The applicant shall have the initial burden of showing by substantial competent evidence that the proposed map amendment is consistent with the Micanopy Comprehensive Plan.
- (2) If the applicant shows that the proposed zoning map amendment is consistent with the Town of Micanopy Comprehensive Plan, the Town Commission shall approve the amendment, unless it finds, based on substantial competent evidence, that:
 - (a) The existing zoning map designation is also consistent with the Town of Micanopy Comprehensive Plan; and
 - (b) It is in the public interest to maintain the existing zoning map designation on the property.

2.9 PROCEDURE FOR OBTAINING BUILDING PERMITS

- A. *Application.* Application for a Building Permit shall be made to the Town Planner on a form provided by the Town Planner.
- B. *Certificate of Zoning Compliance.* The application shall be acted upon by the Town Planner within ten working days without public hearing or notice. The Town Planner shall determine if the proposed construction and use thereof complies with this Code and other regulations of the Town of Micanopy and, if so, the Town Planner shall issue a Certificate of Zoning Compliance. If the proposed construction and use does not comply, the Town Planner shall inform the applicant as to the reasons for non-compliance and refuse to issue the Certificate of Zoning Compliance.
- C. *Action by Alachua County Building Department.* The applicant may submit the application for building permit and Certificate of Zoning Compliance to the Alachua County Building Department for issuance of the building permit as set forth in the agreement between the Town of Micanopy and Alachua County.
- D. *Appeal.* The decision of the Town Planner to issue or not issue the Certificate of Zoning Compliance may be appealed to the Planning and Historic Preservation Board by filing a Notice of Appeal with the Town Planner within 30 days of the Town Planner's decision. The decision of the Planning and Historic Preservation Board shall be final. Review of the Planning and Historic Preservation Board decision may be sought pursuant to Section 2.13 below.

2.10 QUASI-JUDICIAL HEARINGS

- A. *Generally.* Whenever a quasi-judicial hearing is expressly called for by this Code, or where a decision to be made by a Board or Commission is in fact quasi-judicial in nature, the procedures in this section shall be followed.
- B. *Burden And Nature Of Proof.* The applicant for any development order shall have the burden of proving by a preponderance of the evidence that the proposal satisfies the applicable requirements and standards of this Code.
- C. *Order Of Proceedings.* The order of proceedings at any quasi-judicial hearing shall generally be as shown in the following table. These procedures may, however, be varied by the Town Attorney or decision-making board to address the particular circumstances of the case.

ORDER	ITEM
1	The Board or Commission shall determine whether it has jurisdiction over the matter.
2	Members of the Board or Commission shall, if necessary, state whether they have a conflict of interest or must otherwise disqualify themselves from hearing the case.
3	Members of the Board or Commission shall disclose and place on the record any ex parte contacts relating to the matter before the Board or Commission.
4	Introduction of the Petition by the Town Planner
5	Presentation of Applicant's Case
6	Presentation of Staff's Case
7	Presentation of Affected Party's Case
8	Rebuttal by Applicant
9	Rebuttal by Staff
10	Rebuttal by Affected Parties
11	Public Input
12	Deliberation and Vote of Board or Commission
13	Preparation of Final Order
14	Approval of Final Order

- D. *Ex Parte Communications.* The following *ex parte* disclosure requirements apply to all quasi-judicial hearings:
- (1) A town employee, elected official, or other person who is or may become a party to a quasi-judicial proceeding shall avoid engaging in *ex parte* communications with a member of the reviewing board.
 - (2) If a person engages in an *ex parte* communication with a member of the reviewing board, the member shall place on the record of the pending case all *ex parte* written communications received, all written responses to such communications, a memorandum or verbal statement setting forth the substance of all oral communications received, and all oral responses made.
 - (3) The foregoing is not meant to inhibit discussions between members of the reviewing board and town staff that pertain solely to scheduling of hearings and other administrative matters unrelated to the merits of the case.
- E. *Challenges to Impartiality.* A party to an administrative or appellate hearing may challenge the impartiality of any member of the board or commission. The challenge shall state by affidavit facts relating to a bias, prejudice, personal interest, or other facts from which the challenger has concluded that the decision-maker cannot participate in an impartial manner. Except for good cause shown, the challenge shall be delivered by personal service to the Town Planner no less than 48 hours preceding the time set for the hearing. The Town Planner shall forward the challenge to the Town Attorney and attempt to notify the person whose qualifications are challenged prior to the hearing. The challenge shall be incorporated into the record of the hearing.
- F. *Disqualification.* No member of a hearing body shall hear or rule upon a proposal if:
- (1) Any of the following have a direct or substantial financial interest in the proposal: the decision-maker's or the decision-maker's spouse, brother, sister, child, parent, father-in-law, mother-in-law; any business in which the decision-maker is then serving or has served within the previous two years; or any business with which the decision-maker is negotiating for or has an arrangement or understanding concerning prospective partnership or employment; or
 - (2) The decision-maker has a direct private interest in the proposal; or

- (3) For any other valid reason, the decision-maker has determined that he cannot impartially participate in the hearing and decision.

G. *Effect of Disqualification.*

- (1) An abstaining or disqualified member of a hearing body shall not be counted for purposes of forming a quorum.
- (2) A member who takes a position on the issue based upon personal interest may do so only by abstaining from voting on the proposal, vacating the seat on the hearing body, physically joining the audience, and making full disclosure of his status and position at the time of addressing the hearing body.
- (3) If the hearing body is reduced to less than a quorum by abstentions or disqualifications, all members present after stating their reasons for abstention or disqualification shall be re-qualified and proceed to resolve the issues.
- (4) A member absent during the presentation of evidence in a hearing may not participate in the deliberations or final decision regarding the matter of the hearing unless the member has reviewed the evidence received.

H. *Participation By Interested Staff.* No Town of Micanopy officer or employee who has a financial or other private interest in a proposal shall participate in discussions with or give an official opinion to the Board or Commission on the proposal without first declaring for the record the nature and extent of the interest.

I. *Time Limits.* The chair of the Board or Commission may set reasonable time limits on the presentation of testimony and other evidence, provided that all parties to the proceedings are given adequate time to fully present their cases.

J. *Evidence.* Testimony or other evidence that is irrelevant or immaterial to the issue to be decided by the Board or Commission is inadmissible. The Chair shall make rulings on objections to the relevance and materiality of the examination. A commission member, party, or staff member may raise an objection to the possibly irrelevant and immaterial testimony or evidence. During the presentation by the opponents or proponents of an issue before the Board or Commission, no one may present testimony or evidence which is unduly cumulative or repetitious of previously presented testimony or evidence by a fellow opponent or proponent.

K. *Cross Examination.* All testimony presented by witnesses for any party shall be subject to cross examination, subject to reasonable rules and limitations imposed by the Chair.

- L. *Findings And Order.* Unless the board or commission and the developer agree to an extension, the board or commission shall, within thirty-five days of the hearing, render an order including:
 - (1) A statement of the applicable criteria and standards against which the proposal was tested.
 - (2) Findings of facts which established compliance or noncompliance with the applicable criteria and standards of this Code.
 - (3) The reasons for a conclusion to approve, conditionally approve, or deny.

- M. *Record Of Proceedings.*
 - (1) All proceedings shall be recorded stenographically or electronically and shall be transcribed if required for review or if ordered by the Board.
 - (2) The Board shall, where practicable, include in the hearing record each item of physical or documentary evidence presented and shall mark each item to show the identity of the person who presented it. Each exhibit received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, when it may be returned to the person identified thereon, or otherwise disposed of in accordance with Florida law.
 - (3) The findings and order shall be included in the record.

2.11 LEGISLATIVE HEARING

- A. *Generally.* Whenever a legislative hearing is expressly called for by this Code, or where a decision to be made by a Board or Commission is in fact legislative in nature, the procedures in this section shall be followed.

- B. *Notice.* Notice that complies with the requirements of this code and state law shall be given.

- C. *Hearing.* The public hearing shall as a minimum:
 - (1) Comply with the requirements of state law.
 - (2) Present the Town Planner's analysis of the proposed decision.
 - (3) Present the Town Planner's summary of reports by other agencies.

- (4) Permit any person to submit written recommendations and comments before or during the hearing.
- (5) Permit a reasonable opportunity for interested persons to make oral statements.

2.12 ENFORCEMENT

A. *Definitions.*

(1) Minor Deviations

A minor deviation is a deviation from a Final Site Plan that falls within the following limits and that is necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process:

- (a) Alteration of the location of any road, walkway, landscaping or structure by not more than 5 feet.
- (b) Reduction of the total amount of open space by not more than 5 percent, or reduction of the yard area or open space associated with any single structure by not more than 5 percent; provided that such reduction does not permit the required yard area or open space to be less than that required by this Code.

(2) Major Deviations

A major deviation is a deviation other than a Minor Deviation, from a Final Site Plan.

B. *Enforcement of Development Orders and Permits.*

- (1) The Town Enforcement Officer shall implement a procedure for periodic inspection of development work in progress to insure compliance with the relevant approvals by the Town.
- (2) If the work is found to have one or more Minor Deviations, the Town Planner shall amend the approval by the Town to conform to actual development. The Town Planner may, however, refer any Minor Deviation that significantly affects the development's compliance with the purposes of this Code to the Planning and Historic Preservation Board for treatment as a Major Deviation.

- (3) If the work is found to have one or more Major Deviations, the Town Planner shall:
 - (a) Place the matter on the next agenda of the Planning and Historic Preservation Board, allowing for adequate notice, and recommend appropriate action for the Board to take.
 - (b) Issue a stop work order and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the Town Planner determines that work or occupancy may proceed pursuant to the decision of the Planning and Historic Preservation Board.
 - (c) Refer the matter to the Code Inspector, if it appears that the Developer has committed violations within the jurisdiction of the Code Enforcement Board.
- (4) The Planning and Historic Preservation Board shall hold a public hearing on Major Deviations referred to it by the Town Planner shall take one of the following actions:
 - (a) Order the developer to bring the development into substantial compliance (i.e. having no or only Minor Deviations) within a reasonable period of time. The relevant approval by the Town may be revoked if this order is not complied with.
 - (b) Amend the relevant approval by the Town to accommodate adjustments to the development made necessary by technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Amendments shall be the minimum necessary to overcome the difficulty, and shall be consistent with the intent and purpose of the development approval given and the requirements of this Code.
 - (c) Revoke the relevant approvals by the Town based on a determination that the development cannot be brought into substantial compliance and that the approval granted by the Town should not be amended to accommodate the deviations.
- (5) After an approval by the Town has been revoked, development activity shall not proceed on the site until a new approval is granted in accordance with procedures for the original approval.

- C. *Application For Certificate Of Occupancy.* Upon completion of work authorized by a Development Permit or other approval by the Town, and before the development is occupied, the developer shall apply to the Town Planner for a Certificate of Occupancy. The Town Planner shall inspect the work and issue the Certificate if found to be in conformity with the permit or other approval.
- D. *Other Penalties And Remedies.* The Town Planner or Enforcement Officer may pursue the following penalties and remedies, as provided by law.
 - (1) If any building or structure is erected, constructed, reconstructed, altered, repaired, or maintained or any building, structure, land, or water is used in violation of this Code, the Town Planner, through the Town Attorney, may institute an appropriate civil action in any court to prevent, correct, or abate the violation.
 - (2) Any person who violates any provision of this Code shall be deemed guilty of a misdemeanor and shall be subject to fine and imprisonment as provided by law.

2.13 APPELLATE REVIEW

- A. *Generally.* Where provided for in this Article, an aggrieved person may seek review of a final decision of the Planning and Historic Preservation Board as set forth below.
- B. *Aggrieved person, defined.* The following qualify as aggrieved persons for purposes of seeking review of a Planning and Historic Preservation Board decision by the Town Commission:
 - (1) The applicant; or
 - (2) A person who resides or owns land within 400 feet of the boundary of the property subject to the decision of the Planning and Historic Preservation Board, *and* who participated in the hearing before the Planning and Historic Preservation Board by either submitting written comments into the record or by providing oral comments to the Planning and Historic Preservation Board at the hearing.
- C. *Procedure.*
 - (1) An aggrieved person may seek review of a Planning and Historic Preservation Board decision by filing an application for Town Commission review with the Town Planner.

- (2) The application shall be filed within 20 calendar days of the final hearing at which the challenged decision was made by the Planning and Historic Preservation Board.
- (3) If the Town Planner finds that the application has been timely filed by an aggrieved person, the matter shall be set for hearing before the Town Commission at the next available meeting allowing for required notice.
- (4) The Town Commission shall hear the matter *de novo* and make a final decision based on the evidence presented to the Commission.

2.14 NOTICE

A. *Contents.* At a minimum, all notices shall contain the following information:

- (1) The street address and/or general location of the proposed project. A site location map may be included as appropriate.
- (2) A description of the proposed development activity and the type of approval sought.
- (3) The date, time, and location of the hearing.
- (4) Where additional information may be obtained.
- (5) The following statement as required by state law:

All persons are advised that if they decide to appeal any decision made by the above-referenced public hearing, they will need a record of the proceedings, and that, for such purpose, they may need to ensure that a verbatim record of the proceedings is made, which record includes testimony and evidence upon which the appeal is to be based.

B. *Specific Types of Notice.*

- (1) When mailed notice is required in this Code, the notice shall, unless otherwise specifically provided, be sent to the applicant and all property owners within 400 feet of any boundary of the subject parcel as shown on the Alachua County Property Appraiser records. The notice shall be mailed not more than thirty calendar days prior to the hearing nor less than ten calendar days prior to the hearing.
- (2) When newspaper notice is required, the notice shall appear in a newspaper of general circulation within the Town of Micanopy. The advertisement shall appear

once, not more than thirty calendar days prior to the hearing nor less than ten calendar days prior to the hearing.

- (3) When site posting is required, the notice shall be posted in at least one conspicuous place on the subject site starting not more than thirty calendar days prior to the hearing nor less than ten calendar days prior to the hearing. Where a parcel has more than one frontage on a public road, a sign shall be posted on each public road frontage.
- (4) When bulletin board notice is require, the notice shall be posted at least seven days prior to the hearing on the bulletin board at Town Hall.

C. *Table of Required Notice.* Notice shall be provided under this Code as set forth in the Table below, or as set forth for specific matters elsewhere in this Code.

<i>REQUIRED NOTICE</i>	
<i>Site Plan Review</i>	
<i>Concept Review by Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i>
<i>Preliminary Site Plan Review by Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i> • <i>Mailed Notice</i>
<i>Final Site Plan Review by Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i>
<i>Appellate Review by Town Commission</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i>
<i>Subdivision Review</i>	
<i>Concept Review by Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i> • <i>Mailed Notice</i>
<i>Preliminary Plat Review by Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i> • <i>Mailed Notice</i>
<i>Preliminary Plat Review by Town Commission</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i>
<i>Construction Plan Review by Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i>
<i>Final Plat Review by Town Commission</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i>

REQUIRED NOTICE	
<i>Lot Split</i>	
<i>Review by Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i>
<i>Appellate Review by Town Commission</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i>
<i>Special Permits</i>	
<i>Review by Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i> • <i>Mailed Notice</i>
<i>Appellate Review by Town Commission</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i>
<i>Variances</i>	
<i>Review By Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i> • <i>Mailed Notice</i>
<i>Appellate Review by Town Commission</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i>
<i>Zoning Map Amendment</i>	
<i>Review by Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i> • <i>As otherwise required by state law.</i>
<i>Review by Town Commission</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i> • <i>As otherwise required by state law.</i>
<i>Text Amendment to Comprehensive Plan or this Code</i>	
<i>Review by Planning and Historic Preservation Board</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i> • <i>As otherwise required by state law.</i>
<i>Review by Town Commission</i>	<ul style="list-style-type: none"> • <i>Bulletin Board</i> • <i>Site Posting</i> • <i>As otherwise required by state law.</i>

2.15 BOARDS AND AGENCIES

A. *Town Planner*

- (1) The Town Commission shall appoint or designate a Town Planner.
- (2) In addition to duties assigned to the Town Planner elsewhere in this Code, the Town Planner shall:
 - (a) Receive all applications for development approval.
 - (b) Determine the completeness of development applications.
 - (c) Conduct all pre-application conferences.
 - (d) Schedule all applications before the Plan and Preservation Board, Tree Preservation Committee, and Town Commission.
 - (e) Ensure that proper notice is given prior to all hearings on development applications.
 - (f) Ensure that all time limits prescribed by this Code are met.
 - (g) Monitor the progress of all development applications through the review process and be available to respond to the queries of interested persons.

B. *Planning and Historic Preservation Board*

- (1) The Planning and Historic Preservation Board is hereby created as a citizen board with seven members to perform the functions as set forth in this Section and elsewhere in the Code. If possible, the Town Commission shall appoint a registered architect to serve as a member on the Board, or to serve as an advisor to the Board.
- (2) Any interested citizen may be appointed by the Town Commission to the Planning and Historic Preservation Board, but those with experience or interest in the field of planning and/or historic preservation shall receive special consideration.
- (3) In addition to the planning-related duties and responsibilities assigned elsewhere in the Code, the Planning and Historic Preservation Board shall have the following functions, powers and duties:
 - (a) The Board shall obtain and maintain information on population, property values, the land economy, land use and other information necessary to

assess the amount, direction and type of development to be expected in the Town.

- (b) The Town Planner shall serve as staff to the Board, and the Board may request information from any Town department or official. Each department head or official shall supply the requested information or reasonable grounds for unavailability within a reasonable time.
 - (c) Pursuant to and in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes, the Board is hereby designated as the Local Planning Agency for the Town and shall perform the functions and duties as prescribed in the Act.
 - (d) The Board shall monitor and oversee the operation, effectiveness and status of this Code and recommend amendments to the Town Commission that are consistent with the comprehensive plan.
 - (e) The Town Commission may ask the Board for advice about specific land use issues and policies.
 - (f) The Board shall keep the Commission and the general public informed and advised on the land use policies of the Town.
 - (g) The Board shall conduct public hearings to gather information necessary for the drafting, establishment, amendment, and maintenance of the various elements of the Comprehensive Plan and provisions of this Code.
 - (h) The Board may make or obtain special studies on the location, condition and adequacy of specific facilities of the Town, including housing, commercial and industrial facilities, parks, playgrounds, beaches and other recreational facilities, schools, public buildings, public and private utilities, transportation and parking.
 - (I) The Board shall review Redevelopment Plans prepared under Chapter 163, Part III, Florida Statutes.
 - (j) The Board shall perform other lawfully assigned duties.
- (4) In addition to historic preservation-related duties and responsibilities assigned elsewhere in the Code (see especially Article VIII of this Code), the Planning and Historic Preservation Board shall have the following functions, powers and duties:

- (a) Update the official inventory of cultural resources and submit to the Town Commission recommendations and documentation concerning the updating.
- (b) Develop programs to stimulate public interest in urban neighborhood conservation, to participate in the adaptation of existing codes, ordinances, procedures, and programs to reflect urban neighborhood conservation policies and goals.
- (c) Explore funding and grant sources and advise property owners concerning which might be available for identification, protection, enhancement, perpetuation, and use of historic, architectural, archeological, and cultural resources.
- (d) Cooperate with agencies of city, county, regional, state and federal governments in planning proposed and future projects to reflect historic preservation concerns and policies, and assist in the development of proposed and future land use plans.
- (e) Advise property owners and local governmental agencies concerning the proper protection, maintenance, enhancement, and preservation of cultural resources.
- (f) Advise the Town Commission concerning the effects of local governmental actions on cultural resources.
- (g) Review and recommend sites, buildings, structures, objects, and districts, both public and private, for listing on the Local Register of Historic Places.
- (h) Approve or deny petitions for certificates of appropriateness required under the historic preservation regulations in this Code.
- (I) Notify the Town Planner who shall take appropriate action when it appears that there has not been compliance with the historic preservation regulations of this Code.

C. *Tree Preservation Committee*

- (1) The Tree Preservation Committee is hereby established as a citizen board and shall consist of three residents of the Town of Micanopy, who shall be recommended by the Mayor and approved by the Town Commission.

- (2) Notice of any application for authorization to remove a tree shall be provided to the members of the Tree Preservation Committee. The Tree Preservation Committee shall be provided with a reasonable opportunity to comment to the permitting authority prior to the issuance of the proposed development activity.

D. *Citizen Boards in General.* All citizen boards created to administer this Code shall be governed by the following provisions:

- (1). Each member shall be appointed to a three (3) year term.
- (2) When a position becomes vacant before the end of the term, the Town Commission shall appoint a substitute member to fill the vacancy for the duration of the vacated term. A member whose term expires may continue to serve until a successor is appointed and qualified.
- (3) Members may be removed without notice and without assignment of cause by a majority vote of the Town Commission.
- (4) The members of each board shall annually elect a chair and vice chair from among the members and may create and fill other offices as the board deems needed.
- (5) Each board shall create whatever subcommittees it deems needed to carry out the purposes of the board. The chair of the board shall annually appoint the membership of each subcommittee from the members of the board.
- (6) The Town Planner shall appoint a Town employee to serve as secretary to each board.
- (7) Members shall not be compensated, but may be paid for travel and other expenses incurred on board business under procedures prescribed in advance by the Town Commission.
- (8) The Town Commission shall appropriate funds to permit each board to perform its prescribed functions.
- (9) If any member fails to attend three successive meetings the Board shall declare the member's office vacant and notify the Town Commission.
- (10) Each board may adopt rules of procedure to carry out its purposes. All rules must conform to this Code, other Town ordinances, and state law.
- (11) Each board shall keep minutes of its proceedings, indicating the attendance of each member, and the decision on every question.

- (12) A majority of the current members of the board shall constitute a quorum.
- (13) Each decision of a board must be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.