

City of Arcadia



Unified Land Development Code

Article 13

Administration and Enforcement

Prepared by the
Central Florida Regional Planning Council

ARTICLE 13.

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ARTICLE 13.

ADMINISTRATION AND ENFORCEMENT

Section 13.01.00. Responsibility for Enforcement.

The Enforcing Official and persons designated by the City Council for such purpose, shall administer and enforce the provisions of this Land Development Code.

Section 13.01.01. Duties of Enforcing Officials; Recording of Amendments to Zoning Map.

The Enforcing Official shall be charged with the duty of making inspections, approving plans and specifications, issuing permits and certificates of occupancy, maintaining records of applications, permits and certificates, and taking any and all steps or actions necessary to enforce the provisions of this Land Development Code.

It shall be the duty of the Enforcing Official to record all amendments to the zoning maps on the maps in sequence, giving the amendment number, date authorized, date of map change and description of change. This map shall be kept in possession of the City Clerk, and posted in a conspicuous place at all times. Any Development Approval Certificate must carry the number of that amendment.

Section 13.01.02. Conditions for Issuance of Building Permits, Business Licenses, and Other Licenses and Permits.

- A. No building permit shall be issued for the erection, alteration or use of any building or structure or part thereof, or for the use of any land or water, which is not in conformity with all the provisions of the Land Development Code.
- B. No license or permit shall be issued by the Enforcing Official or by any department, agent or official of the City for the use of any premises or the operation of any business, enterprise, occupation, trade, profession or activity which would involve in any way, or constitute, a violation of this Code.

Section 13.01.03. Building Permit Required.

- A. No building or structure, or part thereof, shall be hereafter erected, altered, moved or repaired unless a building permit shall have first been obtained for such work. For purposes of this Section, the terms "altered" and "repaired" shall include any changes in structural parts, stairways, type of construction, kind or class of occupancy, light or ventilation, or means of ingress and egress, or other changes affected or regulated by the building code or this Unified Land Development Code, except for minor repairs or changes not involving any of the features mentioned in this Section.
- B. In applying for a building permit, the applicant shall submit site development plans in accordance with the provisions contained in Article 10 of this Code.

Section 13.01.04. Time Limit for Completing Construction.

No building or structure not completed in substantial conformity with plans and specifications upon which the building permit for its construction was issued shall be maintained or be permitted to remain unfinished for more than six (6) months after the construction of such building was begun, except under such conditions and for such period as may be determined

as reasonable by the Enforcing Official, which approval shall be based upon conformity with, and promotion of, the spirit and purpose of this Code.

Section 13.01.05. Granting of Permit or Approval Does Not Authorize Violation; Errors in Plans.

- A. The issuance or granting of a permit or approval of plans and/or specifications under this Code shall not be deemed or construed to be a permit for, or an approval of, any violation of any of the provisions of this Code. No permit presuming to give the authority to violate or cancel the provisions of this Code shall be valid except insofar as the work or use which it authorizes is lawful.
- B. The issuance of a permit upon plans and specifications shall not prevent the Enforcing Official from thereafter requiring the correction of errors in the plans and specifications or from preventing building operations being carried on thereunder when in violation of this Code or any other regulation of the City.

Section 13.01.06. Right of Entry.

For the purpose of enforcing the provisions of this Code, the Enforcing Officials shall have the right of entry onto private property and into private buildings, at any reasonable time, whenever such officials find such entry necessary for the proper discharge of their duties under this Code. Any person refusing or obstructing such entry shall be guilty of a violation of this Code.

Section 13.01.07. Record of Certificates.

A record of all certificates issued pursuant to the provisions of this Code shall be kept on file in the office of the Enforcing Official, and copies of such certificate shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

Section 13.01.08. Notice of Violation; Correction of Violations.

Where it is found that any of the provisions of this Code are being violated, the person responsible for such violation shall be given notice in writing. Such notice shall indicate the nature of the violation and the action necessary to correct or abate the violation. The Enforcing Official shall order discontinuance of use of land or buildings, removal of buildings, additions, alterations or structures, or discontinuance of any work being done, or take any and all other action necessary to correct violations and obtain compliance with all the provisions of this Code.

Section 13.01.09. Additional Remedies.

In addition to other remedies, in case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, land or water is used in violation of this Land Development Code, or of any regulation made under authority conferred by this Land Development Code, the proper local authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of such building or structure, land or water, or to prevent any illegal act, conduct, business, or use in or about such premises.

Section 13.02.00. Development Review Committee.

The DRC shall be comprised of members consisting of the director or manager, or their designee, of the public works, utilities, fire, and other departments and agencies as necessary. The City Administrator may serve as the Chairman or may appoint a Chairman from the membership who shall be responsible for facilitating the activities of the DRC. The DRC shall be responsible for reviewing development applications, site development plans, subdivision plats, applications requiring Planning and Zoning Board, Board of Adjustment and City Council action, and any other matters designated in this Code.

Section 13.03.00. Board of Adjustment Duties and Responsibilities.

Section 13.03.01. Established; Membership; Appointment and Removal of Members; Term of Members.

A Board of Adjustment is hereby created and established, to consist of seven (7) members, each to be appointed by the City Council. In making appointments, the City Council may appoint any or all of the members of the Planning and Zoning Board to serve as members of the Board of Adjustment, and to serve jointly in the two capacities.

The term of office of each member of the Board shall be three (3) years, except for the filling of vacancies. The terms of all appointments, except to fill vacancies, shall begin on July 1. Each member of the Board shall serve until the expiration of his term or until his or her successor is appointed and takes office. Vacancies on the Board shall be filled as provided in Section 40 of the City Charter for the balance of the unexpired term. Members of the Board shall be citizens of the city and shall hold no elected city office. As provided in Section 40 of the City Charter, members shall receive no compensation for their service. Any member of the Board may be removed from office for cause by a majority vote of the City Council. Repeated absences from Board meetings shall be deemed adequate cause for removal.

Section 13.03.02. Officers; Rules of Procedure.

The Board of Adjustment shall elect a chair, vice-chair and secretary from its membership, and shall adopt rules of procedure for the conduct of its meetings, which shall be subject to the approval of the City Council.

Section 13.03.03. Meetings; Records.

Meetings of the Board of Adjustment shall be called by the chair, or upon the written request of any two (2) members of the Board. All meetings of the Board shall be open to the public. Four (4) members of the Board shall constitute a quorum for the conduct of its business. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and all other official actions, which shall be filed immediately in the office of the Board. All files, minutes and records of the Board shall be public records. In all cases, the Board shall decide either in favor of or against the applicant. Each decision of the Board must be approved by a majority vote of the members present at a meeting in which a quorum is present and voting.

Section 13.03.04. Testimony Before Board.

The Board of Adjustment shall have the power to subpoena and require the attendance of witnesses, administer oaths, and compel testimony and the production of books, papers, files and other evidence pertinent to the matter before it.

Section 13.03.05. Duties.

The Board of Adjustment shall have the following duties and none others:

- A. The Board shall hear and decide cases where it is alleged there is an error in any order, requirement, interpretation, decision, or determination made by an administrative official in the enforcement of this Code. Nothing contained in this Section shall be deemed to require the Board to reverse or modify an order, requirement, decision or determination which conforms to this Land Development Code.
- B. The Board shall have the power to hear and decide, variances from the development standards established by this Code, which will not be contrary to the public interest, where, owing to special conditions, a literal enforcement will result in unnecessary hardship, and so that the spirit and intent of this Code shall be observed and substantial justice done. Variances granted by the Board shall be the minimum necessary to provide a reasonable use of the property. A variance may only be granted for height, area, size of structure or size of yards and open spaces, or other dimensional requirements. The Board shall not be empowered to hear and decide requests for variances to permit a use of land, buildings, or structures which are not permitted by right in the zoning district involved.

Section 13.03.06. Board Findings.

All decisions of the Board of Adjustment are final. Any person or persons aggrieved by any decision of the Board of Adjustment, may, within 30 days after the date of the public hearing at which the decision was rendered, but not thereafter, apply to the courts for relief in the manner provided by the laws of the State of Florida.

Section 13.04.00. Planning and Zoning Board.

Section 13.04.01. Established.

There is hereby created and established a City Planning and Zoning Board as provided in Section 40 of the City Charter.

Section 13.04.02. Membership; Appointment and Removal of Members; Term; Compensation.

The City Planning and Zoning Board shall consist of seven (7) members appointed by the City Council. The term of office of each member of the Board shall be three (3) years, except for the filling of vacancies. The terms of all appointments, except to fill vacancies, shall begin on July 1. Each member of the Board shall serve until the expiration of his term or until his successor is appointed and takes office. Vacancies on the Board shall be filled as provided in Section 40 of the City Charter for the balance of the unexpired term. Members of the Board shall be citizens of the city and shall hold no elected city office. As provided in Section 40 of the City Charter, members shall receive no compensation for their service, but may be reimbursed for actual expenses incurred in the performance of their duties. Any member of the Board may be removed from office for cause by a majority vote of the City Council. Repeated absences from Board meetings shall be deemed adequate cause for removal. (State law reference— Per diem and travel expenses of public officers, F.S. § 122.061).

Section 13.04.03. Organization; Officers; Meetings; Records.

An organization meeting of the Planning and Zoning Board shall be held on July 1 of each year, or as soon thereafter as practicable, for the purpose of electing officers for the ensuing year. A chair, vice-chair and secretary shall be elected for terms of one (1) year by the Board from its membership. The Board shall adopt reasonable rules of procedure to govern the conduct of its business and the holding of hearings. Meetings of the Board shall be called by the chair, or upon the written request of any two (2) members of the Board. Four (4) members shall constitute a

quorum of the Board for its meetings. The Board shall keep a permanent record of its proceedings. All meetings, records and files of the board shall be open and available to the public. (State law reference—Public meetings and records generally, F.S. § 286.011; all meetings of local planning agency are public, F.S. § 163.3174(5)).

Section 13.04.04. Assistance to Board.

- A. As provided in Section 40 of the City Charter, the Planning and Zoning Board may utilize the services of such technical, clerical and other help, as well as expert consultants, as may be authorized or budgeted by the City Council.
- B. All employees and officials of the City shall supply information and assistance upon request by the Board reasonably within the scope of their duties.
- C. The Board may call upon individuals, groups or organizations for information or advice.

Section 13.04.05. Duties and Responsibilities.

The functions and duties of the Planning and Zoning Board shall be in general, as follows:

- A. The Planning and Zoning Board shall consider applications for Comprehensive Plan amendments and shall make recommendations to the City Council.
- B. The Planning and Zoning Board shall study and review the zoning map and provisions of the Unified Land Development Code and, from time to time, propose and recommend to the City Council changes, modifications or amendments thereto.
- C. The Planning and Zoning Board shall consider applications for a change in zoning and make a recommendation to the City Council.
- D. The Planning and Zoning Board shall have the authority to review and recommend Special Approval requests to the City Council which are specifically designated as an "S" in the Table of Land Uses, Article 4, Table 4.10.01, of this Code.
- E. The Planning and Zoning Board shall have the authority to review site plans as provided in this Code.
- F. Review and decide preliminary subdivision plat requests in relation to the City Comprehensive Plan, the zoning ordinances and the subdivision regulations.
- G. Review proposed final subdivision plats in relation to the City Comprehensive Plan, the zoning ordinances, the subdivision regulations, and the approved preliminary plat and make recommendations on the approval of such subdivision plats to the City Council.
- H. The Planning and Zoning Board shall consider applications for Developments of Regional Impact (DRI) and make a recommendation to the City Council.
- I. Compile information and data and carry on studies and investigations on all phases of the development and improvement of the City and its environs, as may be necessary for the proper performance of the Board's duties.
- J. Annually, or upon its own motion, or at the request of the City Council, review the City Comprehensive Plan in relation to proposed or needed revisions to the Plan.

- K. Investigate, report and make recommendations to the City Council on all proposed vacations, dedications and changes in rights-of-way for streets and alleys, all acquisitions of property for public purposes, all sales or dispositions of public property and all allocations of public property for public or private use.
- L. Annually draw up, with the advice and assistance of other appropriate city officials, a five-year and reserve capital improvements program showing the recommendations of the Board for major public improvements and their priorities.
- M. Perform such other duties as may be appropriately assigned to the Board by the City Council.

Section 13.04.06. Local Planning Agency.

The Planning and Zoning Board shall act as the local planning agency pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Ch. 163, Part II, Florida Statutes, and shall perform all functions and duties prescribed by Statute.

Section 13.05.00. Duties of the City Council Related to Planning.

- A. The City Council shall make final decisions to adopt and amend the Comprehensive Plan.
- B. The City Council shall make final decisions to adopt and amend the Unified Land Development Code.
- C. The City Council shall make final decisions on requested changes to the zoning map.
- D. The City Council shall make final decisions on Developments of Regional Impact (DRI).
- E. The City Council shall hear and decide Special Approval requests, which have first been considered by the Planning and Zoning Board, in order to allow uses that are specifically designated as an "S" in the Table of Land Uses, Article 4, Table 4.10.01, of this Code.
- F. The City Council shall hear and decide site plan review requests, as provided in this Code.
- G. The City Council shall make final decisions on final subdivision plats and acceptance of public improvements constructed pursuant to the approved subdivision plat.
- H. The City Council shall consider and decide voluntary annexation requests.
- I. The City Council shall make final decisions on requests to redirect traffic and to close, abandon, or vacate alleys, streets, and other recorded rights-of-way.
- J. The City Council shall consider and decide requests to vacate plats and replats.
- K. The City Council shall consider the merits to waive the time limits for Planning and Zoning Board consideration for rezoning applications previously denied by the Planning and Zoning Board.
- L. The City Council shall decide requests for off-street parking space and access waivers.
- M. The City Council shall appoint members of the Planning and Zoning Board and Board of Adjustment.
- N. The City Council shall determine the need for and appoint members of additional boards, committees and subcommittees to investigate and make decisions on various land use and development issues.

Section 13.06.00. Historic Preservation Commission.

- A. Terms and Definitions. See Section 11.14.08 for all applicable terms and definitions which pertain to the regulations and standards contained herein.
- B. Establishment, Composition and Terms. The Historic Preservation Commission shall consist of seven (7) members who shall be appointed by the City Council. Members need not be residents or owners of businesses that are within the city, but preference shall be given to individuals who reside or have a principal place of business in the city. Where possible, a minimum of two (2) members shall be chosen from among the disciplines of architecture, history, architectural history, archaeology, landscape architecture or planning. A minimum of three (3) additional members of the Commission shall be experienced in the areas of commercial development, real estate, banking or law. The two (2) remaining members shall be citizen members at large. The two (2) alternate members shall be from any of the foregoing professions or citizen members at large. All members shall have demonstrated a special interest, experience or knowledge in historic preservation or closely related disciplines.

Members of the Commission shall serve three (3) year terms. Of the initial appointments, four (4) members shall be appointed for a term of three (3) years and three (3) members shall be appointed for a term of two (2) years. Vacancies on the Commission, including expired terms, shall be filled within sixty (60) days by persons with the same background as the original appointee, or related field, in order to maintain the desired Commission makeup.

The Commission shall hold a minimum of four (4) meetings per year at regular intervals. All meetings of the Commission shall be publicly announced and will have a previously advertised agenda. The meetings shall be open to the public.

Persons serving on the Commission are encouraged to attend educational meetings or workshops to develop a special interest, expertise, experience or knowledge in preservation, architecture, or quasi-judicial boards.

- C. Procedures and Quorum. The Commission shall conduct itself in accordance with the State of Florida's Government in the Sunshine Law, section 286.011, *Florida Statutes*, and adopt rules of procedures, subject to any limitations prescribed by law. The rules of procedures shall be available for public inspection upon request. Four (4) members shall constitute a quorum for the transaction of business.

The Commission shall select a chairman and other officers and shall prescribe their duties and powers. Planning and Zoning staff shall attend all meetings, acting in an advisory capacity and participating fully in Commission discussions, but having no right to vote. The Commission shall keep minutes of its proceedings, record the vote on each question and keep records of its discussions, recommendations and other official actions. Summary minutes will be prepared and made available to the public after adoption by the Commission.

- D. Removal. Any member of the Commission may be removed by majority vote of the City Council.
- E. Powers and Duties of the Commission. The Commission shall have the following powers and duties within the incorporated city limits of Arcadia, Florida:
 - 1. To recommend to the City Council the following:
 - a. Nomination of properties and districts to the National Register of Historic Places, as a required duty of being a certified local government.

- b. Nominations of properties and districts to the Arcadia Register of Historic Places.
 - c. Adoption, modification, or replacement of a Design Guidelines Handbook.
2. To hold public hearings and to approve or deny applications for certificates of appropriateness or certificates of economic hardship affecting proposed or designated properties or properties within districts;
 3. To advise and assist owners of properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, and on procedures for inclusion in the National Register of Historic Places;
 4. To call upon available city staff members as well as other experts for assistance and/or technical advice;
 5. To authorize a member of the Commission to testify before a board or commission on any matter affecting historically, culturally, archaeologically, and architecturally significant properties and resources;
 6. To confer recognition upon the owners of properties and districts by means of certificates, plaques or markers;
 7. To recommend amendments or changes to this Code;
 8. To inform and educate the citizens of the city concerning the historic, cultural, archaeological, and architectural heritage of the city; and
 9. To participate in survey and planning activities of the Certified Local Government;
 10. To coordinate with the State of Florida's Division of Historical Resources Certified Local Government program by satisfying the following requirements:
 - a. The State Historic Preservation Officer shall be given thirty (30) calendar days prior notice of all meetings and within thirty (30) days following such meetings shall be provided with the minutes and record of attendance of the Commission and the public.
 - b. The State Historic Preservation Officer shall be notified of any change of Commission members within thirty (30) days of their appointment.
 - c. Notify the State Historic Preservation Officer immediately of all new historic designations or alterations to existing designations.
 - d. Submit amendments to this Code to the State Historic Preservation Officer for review and comment at least thirty (30) days prior to adoption.
 - e. Submit an annual report by November 1 covering activities of the previous October 1 through September 30 and shall include the following information:
 - i. A copy of the Rules of Procedure;
 - ii. A copy of the Historic Preservation Ordinance;
 - iii. Resumes of the Historic Resources Preservation Commission members;

- iv. Changes to the Historic Resources Preservation Commission membership;
 - v. New local designations and National Register listings;
 - vi. A review of survey and inventory activity with a description of the system used;
 - vii. A program report on each grant-assisted activity; and
 - viii. Number of projects reviewed.
11. To undertake any other actions or activity necessary or appropriate to the implementation of its powers and duties or to implementation of the purpose of this Code.
12. To undertake any responsibilities complementary to those of the State Historic Preservation Office.

Section 13.07.00. Administrative Fees.

The City Council may adopt, by resolution, administrative fees necessary to implement this Code. Such fees may be adjusted on an annual basis, or as necessary, and may include, but are not limited to, application fees, notification and advertising fees, studies, legal expenses, and all other costs in connection with the processing of such petitions.

Petitions for a change in this Code shall be accompanied by a fee deposited with the City Clerk. No such fee shall be refunded except upon a showing of mistake on the part of the petitioner satisfactory to the City Council. In case of hardship upon the petitioner wherein the fee is unreasonable, the City Council may waive the fee. Where the City Planning and Zoning Board or City Council initiates a change in this Code, no fee shall be required.