

Article 1

Article 2 Application Type and Standards Requirements

Division 1 General Provisions

Sec. 2.1.1 Purpose.

The purpose of this article is to establish the standard requirements and procedures for development applications described in this article including Comprehensive Plan and Code amendments. These procedures are intended to provide orderly and expeditious processing of such applications.

Sec. 2.1.2 Concurrent review procedures.

Applications shall, at the request of the applicant, be allowed to be reviewed concurrently. Documents shall be submitted in accordance with the provisions of the applicable sections of this article.

Sec. 2.1.3 Application content.

- A. An application for development shall include the items specified in the applicable section of this article, and all other articles and shall be complete prior to starting the review process. For technical and design sufficiency, an application shall, as applicable, comply with the requirements of related articles and/or divisions of these Codes.
- B. Any application which fails to provide the items listed within shall be deemed incomplete. An incomplete application shall not proceed through the review process and shall be returned to the applicant and any fees paid shall be refunded consistent the applicable Marion County Fee Refund Policies as established by the Marion County Board of County Commissioners.

Sec. 2.1.4 Change of project's name, surveyor, or engineer.

- A. Change of a project's name may be requested at any time prior to final approval. The request must be by written notice from the developer, project surveyor or project engineer to the Office of the County Engineer, with a copy to the Growth Management Department.
- B. Change of the project surveyor or project engineer at any time after the submission of a development application shall require written notification to the Office of the County Engineer from the developer.

Sec. 2.1.5 Resubmittals.

- A. Resubmittals necessitated by the applicant's revisions or errors shall be accompanied by a resubmittal fee as established by the Board of County Commissioners. The fee schedule is available at The Office of the County Engineer or at http://www.marioncountyfl.org/Transportation/Transportation_development_review.aspx
- B. The applicant may replace individual sheets in lieu of submitting full plan sets.
- C. The applicant may redline the plans for minor changes as allowed by staff.

Division 2 Pre-Application Meeting

Sec. 2.2.1 Applicability.

For the purpose of expediting application approval and reducing the cost of development, applicants are encouraged to request a pre-application meeting with County staff to review the feasibility of the project and to obtain information and guidance from County personnel before entering into any binding commitments or incurring substantial expenses of site and plan preparation.

Sec. 2.2.2 Submittal requirements.

- A. Pre-application meeting requests, by letter or email, shall be submitted to the Office of the County Engineer.
- B. There shall be no fee required for the pre-application meeting.
- C. The applicant should submit the following:
 - (1) The parcel number.
 - (2) A location map depicting the site to be developed.

Sec. 2.2.3 Review and approval procedures.

The pre-application meeting is optional and is intended to assist the applicant with future submittals.

Sec. 2.2.4 Completion and close out.

The applicant, at his option, may present to the Development Review Committee a brief written summary of the pre-application meeting minutes within 10 working days after the meeting and request that the summary be scheduled for discussion at the next available Development Review Committee meeting.

Division 3 Comprehensive Plan Amendment

Sec. 2.3.1 Applicability.

- A. Proposals to amend, modify, or change a component of the adopted Marion County Comprehensive Plan as described in **Article 3, Division 1**, shall be considered and initiated by the filing of the appropriate Comprehensive Plan Amendment Application (CPAA).
- B. The Growth Management Department shall provide for the processing of CPAA types, consistent with the provisions of Chapter 163, Florida Statutes, as follows:
 - (1) Small Scale Future Land Use Map Amendment – to be filed for the purpose of amending the Future Land Use Designation(s) of real property as depicted on the Marion County Comprehensive Plan Future Land Use Map Series Map 1 in regards to a parcel, part of a parcel, or series of parcels wherein the land use amendment area does not exceed a total of 10 gross acres in size as established by Chapter 163, Florida Statutes;
 - (2) Large Scale Map Amendment – to be filed for the purpose of amending the Future Land Use Designation(s) of real property as depicted on the Marion County Comprehensive Plan Future Land Use Map Series Map 1 in regards to a parcel, part of a parcel, or series of parcels without regard to the gross acreage of the land use amendment area consistent with the provisions of Chapter 163, Florida Statutes;

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- (3) Large Scale Text Amendment - to be filed for the purpose of amending the text or other reference maps and materials which are part of the adopted Marion County Comprehensive Plan;
- (4) Small Scale Text Amendment – to be filed for the purpose of amending the text or other reference maps and materials which are part of the adopted Marion County Comprehensive Plan wherein the proposed amendment is specifically related to a concurrent amendment to the Marion County Comprehensive Plan Future Land Use Map Series Map 1; and
- (5) The Growth Management Department may opt to provide a multi-purpose CPAA which accommodates the submission for any of the CPAA types listed in items (1) – (4).

Sec. 2.3.2 Submittal Requirements.

- A. All CPAAs shall be obtained from and submitted to the Growth Management Department.
- B. A fee in the amount established by resolution of the Board of County Commissioners shall accompany the CPAA. The fee schedule is available from the Growth Management Department or at <http://www.marioncountyfl.org/landdevelopmentapplicationfees>.
- C. The Growth Management Department shall review each application for adequacy and completeness, wherein the application will not be considered complete until the following items have been submitted:
 - (1) A completed CPAA, including providing all necessary supporting documentation as set forth in the CPAA.
 - (2) A CPAA shall include all material and information necessary to demonstrate that the granting of the amendment is consistent with the Marion County Comprehensive Plan, and Chapter 163, Florida Statutes.
 - (3) For an Amendment affecting specific real property, the following shall be provided at a minimum:
 - a. Signed/executed Owners authorization statement(s) naming each individual having legal or equitable ownership of the subject property;
 - b. Notarized letter of authorization form for each owner authorizing the indicated applicant to act on the owner’s behalf if the applicant is other than the owner(s);
 - c. Warranty deed;
 - d. Signed and sealed boundary survey of property which also shows the surrounding and adjacent land uses within three hundred (300) feet of property. The surrounding land uses do not need to be surveyed, rather the land use designations shall be recorded on the survey;
 - e. Proposed/Requested Future Land Use Designation(s) for the real property;
 - f. Existing Zoning Classification(s) and Land Use Designation(s) for the real property and all property abutting the real property;
 - g. A Traffic Impact Analysis shall be provided which is based on the maximum estimated traffic generation of the proposed Future Land Use Designation(s). The study level of the analysis shall comply with the County Traffic Impact Analysis Guidelines, available at the Office of the County Engineer or at the following site www.marioncountyfl.org; and
 - h. Any additional information determined to be necessary to analyze the CPAA to address

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consistency and compliance with the Marion County Comprehensive Plan, Marion County Land Development Code, and/or Chapter 163, Florida Statutes.

Sec. 2.3.3 Review and approval procedures.

- A. The timing for the submission and general processing of all CPAA types shall be established at the determination and discretion of the Board of County Commissioners, consistent with the provisions of Chapter 163 and Chapter 380, Florida Statutes, as applicable.
- B. A CPAA shall be reviewed for compliance and consistency with the Marion County Comprehensive Plan and Chapter 163, Florida Statutes, pursuant to the provisions of this Division and **Article 3, Division #.**
- C. A CPAA shall be enacted by adopted Ordinance consistent with the provisions of **Article 1, Division 3, and Article 3, Division #,** and Chapter 163, Florida Statutes.
- D. A CPAA shall not be deemed complete unless and until an affirmative “Notice of Intent”, or its equivalent, has been issued regarding the CPAA, and the effective date of the adopting Ordinance has been satisfied.

Sec. 2.3.4 Completion and close out.

- A. The Growth Management Department shall publish a revision to the Marion County Comprehensive Plan incorporating the completed CPAA into the Marion County Comprehensive Plan, as appropriate.
- B. Applications applicable to a CPAA subject property may be processed for review and consideration as provided within this **Article**; however no such application may be granted or obtain final approval unless and until the CPAA is determined to be complete, pursuant to Chapter 163, Florida Statutes.
- C. At the applicant’s request, the Growth Management Department shall issue a written notice confirming the completed status of a CPAA. The Growth Management Department may also elect to provide such notice at the determination of the Department Director.

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Division 4 Land Development Code Amendment

Sec. 2.4.1 Applicability.

Proposals to amend, modify, or change a component of the adopted Marion County Land Development Code shall be considered and initiated by the filing of an application or shall be initiated by the Board of County Commissioners. Ordinances initiated by the Board of County Commissioners which do not actually change the zoning classification applicable to a piece of property but do affect the use of land, including amendments to this Land Development Code, regardless of percentage of the total land area of the County actually affected, shall be enacted or amended.

Sec. 2.4.2 Submittal Requirements.

- A. All proposals to amend the Land Development Code shall be submitted to the Growth Management Department.
- B. A fee in the amount established by resolution of the Board of County Commissioners shall accompany the application. The fee schedule is available at the Growth Management Department and http://www.marioncountyfl.org/Transportation/Transportation_development_review.aspx.

Sec. 2.4.3 Review and approval procedures.

- A. The proposed amendment language shall be reviewed by staff and shall be placed on the agenda of the Land Development Regulation Commission.
- B. Public hearing - Land Development Regulation Commission.
 - (1) The Land Development Regulation Commission shall hold a public hearing after due public notice as defined in **Section 2.2**, to consider proposed amendments to the Land Development Code.
 - (2) Findings. In making a recommendation for approval to the Board of County Commissioners, the Land Development Regulation Commission shall make a written finding that the proposed amendment is consistent with the Marion County Comprehensive Plan.
 - (3) Denial. If the Land Development Regulation Commission recommends denial of the proposed amendment, it shall state in writing its findings of fact and reasons for denial.

Sec. 2.4.4 Completion and close out.

- A. The Board of County Commissioners shall hold public hearings to consider recommendations from the Land Development Regulation Commission for approval or denial of proposed Land Development Code amendments. The Board shall provide for public notice and hearings as follows:
 - (1) The Board shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5:00 p.m. on a weekday, unless the Board, by a majority plus one vote elects to conduct that hearing at another time of day. The first public hearing shall be held at least seven days after the day that the first advertisement is published. The second hearing shall be held at least ten days after the first hearing and shall be advertised at least five days prior to the public hearing.
 - (2) The required advertisements shall be no less than two columns wide by ten inches long in a

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standard size newspaper and the headline in the advertisement shall be in a type no smaller than 18 point and shall comply with the provisions of Section 125.66(4), Florida Statutes.

- B. Board decisions, appeals. All recommendations for a Land Development Code amendment shall be approved or denied by a majority vote of the Board members present and voting at the public hearing of the Board to consider the application. If the vote of the Board results in a tie vote, the tie vote may operate as a deferral to the next Board public hearing or date otherwise designated by the Board and the Board may defer the application until a full Board is present. Appeal of any decision of the Board of County Commissioners granting or denying a land development code amendment shall be by filing a Petition for Writ of Certiorari with the Circuit Court in Marion County within 30 days of rendition of the decision to be reviewed.

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Division 5 Zoning Change

Sec. 2.5.1 Applicability.

- A. An application for the rezoning of a parcel of land may be obtained from the Zoning Division. The application shall include all material and information, including proposed densities and intensities, necessary to demonstrate that the granting of the rezoning request will be consistent with the adopted Comprehensive Plan and any amendments thereto; and will be compatible with the surrounding area.
- B. Rezoning of property initiated by the Board of County Commissioners without application by the property owner shall be enacted pursuant to the following procedures:
 - (1) In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less than ten contiguous acres the Board shall provide Due Public Notice and shall notify by registered mail each real property owner whose land the Board proposes to redesignate. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for a public hearing. Such notice shall be given at least 30 days prior to the date set for the public hearing before the Board, and a copy of such notice shall be kept available for public inspection during the regular business hours at the office of the Zoning Manager.
 - (2) In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving ten contiguous acres or more, the Board shall provide for public notice and hearings as follows:
 - (a) The Board shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5:00 p.m. on a weekday, unless the Board, by a majority plus one vote elects to conduct that hearing at another time of day. The first public hearing shall be held at least seven days after the day that the first advertisement is published. The second hearing shall be held at least ten days after the first hearing and shall be advertised at least five days prior to the public hearing.
 - (b) The required advertisements shall be no less than two columns wide by ten inches long in a standard size newspaper and the headline in the advertisement shall be in a type no smaller than 18 point and shall comply with the provisions of Section 125.66(4), Florida Statutes.

Sec. 2.5.2 Submittal Requirements.

- A. A formal application for the rezoning of a parcel of land may be obtained from the Zoning Division. The rezoning application shall include a deed, legal description and all material and information, including proposed densities and intensities, necessary to demonstrate that the granting of the rezoning request will be consistent with the adopted Comprehensive Plan and any amendments thereto; and will be compatible with the surrounding area. For application requirements to rezone to PUD, see **Sec 2.9 PUD Master Plan**.
- B. A fee in the amount established by resolution of the Board of County Commissioners shall accompany the application. The fee schedule is available at the Growth Management Department and http://www.marioncountyfl.org/Transportation/Transportation_development_review.aspx.

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Sec. 2.5.3 Review and approval procedures.

- A. Public hearings related to this application request are set for the calendar year and the schedule is available from the Marion County Growth Management Department or @ www.marioncountyfl.org. A normal Zoning Change application cycle will take 90± days to complete.
- B. A public notice shall be posted on the property giving the particulars of the proposed rezoning and the date, time and place of the required public hearings.
- C. All property owners within 300 feet of the boundaries of the property subject to rezoning shall be notified by mail of the proposed rezoning with said notice giving the particulars of the proposed rezoning; the date, time and place of the required public hearings; and a phone number which may be called for additional information. The latest data from the County Assessor's Office obtained within the 30 day period preceding the public hearing, giving the name and address of adjacent property owners within 300 feet of the boundaries of the property subject to rezoning shall be used for mailing the written notifications of the proposed rezoning.
- D. A visit to the site will be made by the Planning and/or Zoning Division Staff who will prepare a written recommendation as to the proposed rezoning consistency with the current Comprehensive Plan. This recommendation will be given to the applicant and made available to the public prior to the public hearings.
- E. Public hearing - Zoning Commission.
 - (1) The Zoning Commission shall hold a public hearing after due public notice as defined in Section 1.2.2, herein to consider applications for the rezoning of property as set forth in Section 3.1 1.3.7.
 - (2) Findings. In making a recommendation to the Board of County Commissioners, the Zoning Commission shall make a written finding that granting the rezoning will not adversely affect the public interest, that the proposed zoning change is consistent with the current Comprehensive Plan, and that it is compatible with land uses in the surrounding area.
 - (3) Denial. If the Zoning Commission recommends denial of the proposed rezoning, it shall state in writing its findings of fact and reasons for denial.

Sec. 2.5.4 Completion and close out.

- A. Public hearing - The Board of County Commissioners shall hold a public hearing after each Zoning Commission public hearing with due public notice as defined in Section 1.2.2 herein, to consider recommendations from the Zoning Commission for approval or denial of proposed rezoning.
- B. When the Board of County Commissioners has denied an application for a rezoning, no applicant shall submit an application for a rezoning for any part or all of the same property for the same zoning classification for a period of 12 months from the date of denial unless the property is incorporated, annexed or there is a Comprehensive Plan amendment which would affect the area.
- C. Applicant's request for withdrawal. At the request of the applicant the Zoning Commission or the Board of County Commissioners shall permit withdrawal of an application. The fee paid shall not be refunded.
- D. Applicant's request for continuance. At the request of an applicant and for good cause shown, the Zoning Commission or the Board of County Commissioners may continue the public hearing

on an application for rezoning. The applicant shall be required to pay an additional application fee to cover the cost of re-advertising and re-notifying the adjacent property owners. The Zoning Commission or the Board of County Commissioners shall not grant an applicant's request for continuance when the application is the result of a notice of zoning code violation and the rezoning is necessary to cure such violation. The applicant will not be required to pay an additional application fee if the continuance is granted by the Zoning Commission or the Board of County Commissioners, on their own initiative, when deemed necessary or desirable.

- E. Board decisions, appeals. All applications requesting a rezoning shall be approved or denied by a majority vote of the Board members present and voting at the public hearing of the Board to consider the application. If a vote of the Board results in a tie vote, the tie vote shall operate as a deferral to the next zoning public hearing or date otherwise designated by the Board. Appeal of any decision of the Board of County Commissioners granting or denying a rezoning application shall be by filing a Petition for Writ of Certiorari with the Circuit Court in Marion County within 30 days of rendition of the decision to be reviewed.

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Division 6 Special Use Permit

Sec. 2.6.1 Applicability.

Uses not specifically permitted by this Code in any zoning classification may be permissible and shall require a Special Use Permit (SUP). The listing of permitted uses in a zoning classification is not meant to be all inclusive.

Sec. 2.6.2 Submittal Requirements.

- A. A formal written application for a Special Use Permit on a form provided by the Zoning Division is submitted to the Zoning Manager indicating the section of this Code under which the Special Use Permit is sought and stating the grounds on which it is requested.
- B. A fee in the amount established by resolution of the Board of County Commissioners shall accompany the application. The fee schedule is available at the Growth Management Department and http://www.marioncountyfl.org/Transportation/Transportation_development_review.aspx.
- C. A Conceptual Plan prepared in accordance with the provisions of **Articles 8 and 9** and at an appropriate scale showing proposed placement of structures on the property, provisions for ingress and egress, off-street parking and off-street loading areas, refuse and service areas, and required yards and other open spaces.
 - (1) Plans for screening and buffering with reference as to type, dimensions and character. Where additional requirements on the preparation of conceptual plan is required to demonstrate the General Findings below, those requirements shall be met.
 - (2) Proposed locations for utilities including water and sewer.
- D. General Findings. The application shall include a description of the following findings. The Zoning Commission may make further written findings that the specific requirements, if any, governing the individual Special Use Permit, excluding towers, have been made concerning the following matters, where applicable:
 - (1) Provision for ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.
 - (2) Provision for off-street parking and loading areas, where required, with particular attention to the items in **1.a. above** and the economic, noise, glare, or odor effects of the Special Use Permit on adjoining properties and properties generally in the surrounding area.
 - (3) Provisions for refuse and service area, with particular reference to the items in **1.a. and 1.b. above**.
 - (4) Provision for utilities, with reference to locations, availability and compatibility.
 - (5) Provision for screening and buffering of dissimilar uses and of adjacent properties where necessary.
 - (6) Provision for signs if any and exterior lighting with consideration given to glare, traffic safety, economic effects and compatibility and harmony with properties in the surrounding area.
 - (7) Provision for required yards and other green space.
 - (8) Provision for general compatibility with adjacent properties and other property in the surrounding area.

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- (9) Provision for meeting any special requirements required by the site analysis for the particular use involved.
- E. Findings for Telecommunication Tower Applications: The application shall include a description of the following findings. The Zoning Commission may make further written findings that the specific requirements contained in **Sections 5.9.5, 5.9.6 and 5.9.7** governing a Special Use Permit for Telecommunication towers has been made concerning the following matters, where applicable:
- (1) Setbacks from Parent Property Lines
 - (2) Certified fall radius.
 - (3) Locational Requirements Relative to Off-Site Uses and Zoning
 - (4) Provisions for Collocation
 - (5) Tower Clustering
 - (6) Landscaping, Screening and Buffers.
 - (7) Lighting of Tower
 - (8) Color of Tower
 - (9) Building design and blending of tower facilities to the natural setting and built environment.
 - (10) Antenna Compatibility
 - (11) Signage
 - (12) Security Fencing
 - (13) Inventory of Existing Sites
 - (14) Compliance with current standards and regulations of the FAA, the FCC and any other Federal governmental agency with the authority to regulate towers and antennas
 - (15) Building Codes and Standards
 - (16) Provision of parking spaces and provisions for removal of refuse
 - (17) Provision for utilities
 - (18) Provisions for general compatibility with adjacent properties and other property in the surrounding area
- F. Findings and submittal requirements for Mining application, **see Sec. ???**
These findings and recommendations shall be forwarded to the Board of County Commissioners for review and approval.

Sec. 2.6.3 Review and approval procedures.

- A. Public hearings related to this application request are set for the calendar year and the schedule is available from the Marion County Growth Management Department or @ www.marioncountyfl.org. A normal Special Use Permit application cycle will take 90± days to complete.
- B. Upon receipt of a completed application for a Special Use Permit, the Zoning Manager shall promptly forward a copy thereof to the Growth Management Director for review and recommendations by the Planning Division. The Planning Division shall review the application for a Special Use Permit and shall make recommendations to the Zoning Commission respecting the

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applications consistency with the Comprehensive Plan.

- C. If the Planning Division fails to make a written recommendation to the Zoning Commission by the date the Zoning Commission has set to officially act on the request, the Planning Division shall be deemed to have recommended approval of the application and consistency with the Comprehensive Plan. The Planning Commission shall not be required to make a recommendation to the Zoning Commission on any such application.
- D. Public hearings - The Zoning Commission shall hold public hearings to consider applications for Special Use Permits in the manner set forth in **Subsection 3.1.2.b**.
- E. Zoning Commission Hearing
 - (1) Conditions and safeguards. In recommending any Special Use Permit, the Zoning Commission may prescribe appropriate conditions and safeguards in conformity with this Code.
 - (2) Time limit. The Zoning Commission may recommend a reasonable time limit within which the use for which the Special Use Permit is required shall be started or completed.
 - (3) Denial. If the Zoning Commission recommends denial of a Special Use Permit, it shall state full in writing its reasons for denial. Reasons may include the lack of provisions stated in **Subsection 4.6.4** above, or such of them as may be applicable to the action of denial and the particular regulations relation to the specific Special Use Permit requested, if any.

Sec. 2.6.4 Completion and close out.

- A. The Board of County Commissioners shall hold a public hearing after each Zoning Commission public hearing with due public notice as defined in **Section 2.2** herein to consider recommendations from the Zoning Commission for approval or denial of Special Use Permits. The decision of the Board of County Commissioners shall be final.
- B. Applicant's Request for Withdrawal At the request of the applicant the Zoning Commission or the Board of County Commissioners shall permit withdrawal of an application. The fee shall not be refunded.
- C. Applicant's Request for Continuance At the request of an applicant and for good cause shown, the Zoning Commission or the Board of County Commission may continue the public hearing on an application for a Special Use Permit. The applicant shall be required to pay an additional application fee to cover the cost of re-advertising and re-notifying the adjacent property owners. The Zoning Commission or the Board of County Commissioners shall not grant an applicant's request for continuance when the application is the result of a notice of zoning code violation and the Special Use Permit is necessary to cure such violation. The applicant will not be required to pay an additional application fee if the continuance is granted by the Zoning Commission or the Board of County Commissioners, on their own initiative, when deemed necessary or desirable.
- D. Limitation on special use permits. When the Board of County Commissioners has denied an application for a Special Use Permit, no applicant shall submit an application for a Special Use Permit for any part or all of the same property for the same use for a period of 12 months from the date of denial unless the property is incorporated, annexed or there is a Comprehensive Plan amendment which would affect the area.
- E. Board decisions, appeals. All applications requesting a Special Use Permit shall be approved or denied by a majority vote of the Board members present and voting at the public hearing of the

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Board to consider the application. If the vote of the Board results in a tie vote, the tie vote may operate as a deferral to the next zoning public hearing or date otherwise designated by the Board and the Board may defer the application until a full Board is present. Appeal of any decision of the Board of County Commissioners granting or denying a Special Use Permit application shall be by filing a Petition for Writ of Certiorari with the Circuit Court in Marion County within 30 days of rendition of the decision to be reviewed.

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Division 7 Variance

Sec. 2.7.1 Applicability.

A variance is required when zoning requirements cannot be met.

Sec. 2.7.2 Submittal Requirements.

- A. A formal application for a Variance on a form provided by the Zoning Division is submitted to the Zoning Manager.
- B. A fee in the amount established by resolution of the Board of County Commissioners shall accompany the application. The fee schedule is available at the Growth Management Department and http://www.marioncountyfl.org/Transportation/Transportation_development_review.aspx.
- C. A variance from the terms of these regulations shall not be granted by the Board of Adjustment unless the written petition for a variance submitted demonstrates that:
 - (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings with the same zoning classification and land use area.
 - (2) The special conditions and circumstances do not result from the actions of the applicant.
 - (3) Literal interpretation of the provisions of applicable regulations would deprive the applicant of rights commonly enjoyed by other properties with the same zoning classification and land use area under the terms of said regulations and would work unnecessary and undue hardship on the applicant.
 - (4) The variance, if granted, is the minimum variance that will allow the reasonable use of the land, building or structure.
 - (5) Granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning classification and land use area.
 - (6) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Sec. 2.7.3 Review and approval procedures.

- A. Public hearings related to this application request are set for the calendar year and the schedule is available from the Marion County Growth Management Department or @ www.marioncountyfl.org. A normal Variance application cycle will take 60± days to complete.
- B. A site visit by the Zoning Division is conducted, pictures taken and report prepared for the Board of Adjustments.
- C. Notice of public hearing. Due public notice as defined in **Section 2.2** shall be given prior to public hearings held by the Board of Adjustment. Said notices shall also inform the recipient that actions of the Board of Adjustment are final.
- D. To authorize such variances from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary and undue hardship.

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Sec. 2.7.4 Completion and close out.

- A. Public hearing. The public hearing shall be held by the Board of Adjustment and any party may appear in person, by authorized agent, or by an attorney.
- B. Findings. The Board of Adjustment shall make findings that the requirements of this section have or have not been demonstrated by the applicant for a variance.
- C. Conditions and safeguards. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations, including, but not limited to, reasonable time limits within which the action for said variance is required to begin or be completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations.
- D. Limitation on power to grant variances. Under no circumstances shall the Board of Adjustment grant a variance to permit a use not permitted under the terms of these regulations in the zoning classification involved, or any use expressly or by implication prohibited by the terms of these regulations in the said zoning classification. No non-conforming use of neighboring lands, structures or buildings in the same zoning classification and no permitted use of lands, structures or buildings in any other classification shall be considered grounds for the granting of a variance. No Special Use Permits shall be granted by the Board of Adjustment.
- E. Limitation of variances. When the Board of Adjustment has denied an application for a variance, no applicant shall submit an application for the same variance for a period of 12 months from the date of denial.
- F. Request for continuance. At the request of an applicant and for good cause shown, the Board of Adjustment may continue the public hearing on an application for a variance. The applicant shall be required to pay an additional application fee to cover the cost of re-advertising and re-notifying the adjacent property owners. The Board of Adjustment shall not grant an applicant's request for continuance when the application is the result of a notice of zoning code violation and the variance is necessary to cure such violation. The applicant will not be required to pay an additional application fee if the continuance is granted by the Board of Adjustment on their own initiative, when deemed necessary or desirable.
- G. The Board of Adjustment shall have the authority to revoke a variance previously granted upon the submission of facts supporting noncompliance with conditions and safeguards presented by the Board of Adjustment in granting the variance. The Zoning Manager shall provide written notice by registered mail to the property owner at least 15 days prior to consideration of revocation by the Board of Adjustment, and such written notice shall specify the time, date and meeting place of the Board of Adjustment and the reasons supporting revocation. The Board of Adjustment shall conduct an informal hearing on such revocation and shall adopt findings of fact supporting such revocation. Appeal of any decision of the Board of Adjustment, granting or denying a request for Variance shall be by filing a Petition for Writ of Certiorari with the Circuit Court in Marion County within 30 days of rendition of the decision to be reviewed.

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Division 8 Waiver Request

Sec. 2.8.1 Applicability.

Waivers from these regulations may be negotiated with the Development Review Committee which shall approve, approve with conditions, or deny said waivers.

Sec. 2.8.2 Submittal requirements.

- A. Waiver request application forms shall be submitted to the Office of the County Engineer.
- B. A fee in the amount established by resolution of the Board of County Commissioners shall accompany the application. The fee schedule is available at the Office of the County Engineer or at http://www.marioncountyfl.org/Transportation/Transportation_development_review.aspx.
- C. The applicant shall submit the following:
 - (1) The waiver request form including citing the section of the Land Development Code and stating the reason, hardship and justification for each waiver requested.
 - (2) A conceptual plan, at minimum, depicting what currently exists and what is being proposed on the property. If submitted larger than 11"x 17", a digital version of the conceptual plan shall be provided, if available.
 - (3) A color aerial photo with the property contemplated for development outlined.

Sec. 2.8.3 Review and approval procedures.

- A. Waiver requests shall be reviewed by staff and a decision rendered by the Development Review Committee within 10 working days from the established deadline.
- B. In case of disagreement between the applicant and the Development Review Committee, the decision of the Development Review Committee may be appealed to the Board of County Commissioners through the Office of the County Engineer.

C. WHAT ARE THE OPTIONS if THE BOARD DENIES IT? WHAT STEPS CAN BE TAKEN?

- (1) Court
- (2) Resubmit waiver and go through the entire process again, including the fee
- (3) Go before BCC as a general public item and ask them to reconsider their decision

Sec. 2.8.4 Completion and close out.

Waivers shall be listed on the cover sheet of the applicable plans with approval dates and conditions, if any. Approved waivers are valid only for the application submitted, the type of development being proposed and related applications.