

Bay County Board of County Commissioners

Agenda Item Summary

1. DEPARTMENT MAKING REQUEST/NAME: Development Services Daniel K. Shaw, Assistant County Manager	2. MEETING DATE: February 7, 2012
3. REQUESTED MOTION/ACTION: Board to conduct a second legislative public hearing to consider a proposal to amend Sections 108 (Existing/Non-conforming Uses), 1305 (Fences, Hedges and Walls), 1702 (Development Order Required), 1711 (Permits from Other Agencies), 1803 (Development Review Procedures), 1911 (Tree Protection), 2302 (Land Clearing), 2303 (Adequate Grading), and 3005 (General Sign Standards) of the Land Development Regulations.	
4. AGENDA PRESENTATION <input type="checkbox"/> PUBLIC HEARING <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> REGULAR <input type="checkbox"/>	5. IS THIS ITEM BUDGETED (IF APPLICABLE)?: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> IF NO, STATE ACTION REQUIRED <input type="checkbox"/> N/A BUDGET ACTION: FINANCIAL IMPACT SUMMARY STATEMENT: DETAILED ANALYSIS ATTACHED?: YES <input type="checkbox"/> NO <input type="checkbox"/>

6. BACKGROUND:

In January of 2011, the Board directed the County Manager to review existing rules and regulations in place to see if there are improvements that could be made to reduce the burden of government on our customers. The County Manager returned to the Board on October 18, 2011, with a list of recommendations to amend the Bay County Land Development Regulations (LDRs) to accomplish that direction. At the conclusion of that meeting, the Board also directed staff to review the tree protection regulations, fences, and general sign standard and offer recommendations to streamline permitting procedures. To that end, staff is proposing several amendments to the LDRs.

Existing/Non-conforming Uses. Changes to Section 108 would allow the expansion of non-conforming uses and structures up to 20% or 5,000 square feet, whichever is less. This provision is currently permitted for designated historic sites and structures.

Fences, Hedges and Walls. Changes in Section 1305 would allow the construction of fences, hedges and walls up to a height of eight feet on all lots to extend to the minimum required front yard setback. From that point forward, the maximum allowed fence height is four feet. Currently, these features are only permitted to extend to a height of eight feet to the rear of a structure on corner lots. In addition, the method of measuring fence height is clarified and a diagram is added to illustrate the measurement.

Development Order Required. This revision to Section 1702 would eliminate an internal inconsistency in the Code and delete a reference to Section 1803.7 which is also proposed for elimination.

Permits from Other Agencies. Amending Section 1711 would delete the restriction that prevents the County from issuing a Development Order until State and Federal permits are obtained. Nevertheless, a developer is still required to provide proof to the County that all permits or exemptions have been obtained prior to obtaining a Certificate of Acceptance.

Development Review Procedures. Changes to Section 1803 would exempt the construction of up to four dwelling units of any type from the Development Order procedures and rescind the 7-day waiting period upon issuance of a Development Order.

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Amendments to the LDRs – 2nd Reading
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Tree Protection. Section 1911 is proposed for revision to limit protected trees to Historic, Specimen, Champion or Heritage oaks, as defined by the Code, that have a diameter of 30-inches or greater.

Land Clearing and Adequate Grading. These amendments to Sections 2302 and 2303 would eliminate the need for a Development Order to clear more than three-acres in size and require an administratively reviewed and approved permit for grading.

General Sign Standards. This revision to Section 3005 would allow the Planning Official, in consultation with the Public Works Traffic Engineer, to allow an on-premise sign to encroach closer to a front yard setback provided an adequate line-of-sight is maintained that insures safe vehicular, bicycle and pedestrian movements

The proposed revisions are attached for your review and consideration. Deleted language is illustrated by ~~strike~~through and added language in double underline.

The Planning Commission conducted public hearings to consider these amendments on November 17 and December 15, 2011, and voted unanimously to forward a recommendation to the Board to approve the proposals.

It is recommended the Board:

1. Conduct a second public hearing;
2. Approve the proposed amendments; and
3. Adopt the attached ordinance (**EXHIBIT 1**).

This item has been noticed as a public hearing in accordance with Section 206 of the Land Development Regulations.

EXHIBIT 1

ORDINANCE NO. _____

AN ORDINANCE PROVIDING FOR AUTHORITY AND PURPOSE;
PROVIDING A SHORT TITLE; AMENDING SECTIONS 108, 1305,
1702, 1711, 1803, 1911, 2302, 2303, AND 3005, DEVELOPMENT
CODE ADMINISTRATION, OF THE BAY COUNTY LAND
DEVELOPMENT REGULATIONS TO AMEND SECTION 1706;
PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE
DATE.

WHEREAS, Chapter 163, Part II, Florida Statutes requires local governments to adopt a comprehensive plan that shall be implemented by the adoption and enforcement of appropriate local land development regulations;

WHEREAS, the Bay County Comprehensive Plan provides that Bay County shall adopt and maintain Land Development Regulations and a Zoning Code to implement the Comprehensive Plan;

WHEREAS, the Board of County Commissioners of Bay County, Florida (the “Board”), approved Ordinance No. 04-30, the Bay County Land Development Regulations;

WHEREAS, at the direction of the Board of County Commissioners to implement the Comprehensive Plan, Staff proposed amendments to Sections 108, 1305, 1702, 1711, 1803, 1911, 2302, 2303, and 3005, of the Land Development Regulations;

WHEREAS, the Bay County Planning Commission sitting as the Bay County Land Planning Agency conducted a public hearings on November 17 and December 15, 2011, to hear and consider comments from the public on the proposed amendments to the Land Development Regulations and made recommendations to the Board;

WHEREAS, the Board conducted public hearings to consider the proposed amendments to the Land Development Regulations and considered comments from the public, Staff and the recommendations of the Planning Commission;

WHEREAS, pursuant to Section 125.66, Florida Statutes the Board conducted an initial public hearing on January 17, 2012, and a second public hearing on February 7, 2012, and found the proposed amendments to the Bay County Land Development Regulations desirable and necessary to fulfill the intent of the Board and to be consistent with the Bay County Comprehensive Plan;

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Bay County:

Section 1. AUTHORITY AND PURPOSE. This ordinance is adopted pursuant to the authority granted counties in Chapter 125, Florida Statutes and is enacted to provide for the health, safety and welfare of the citizens of Bay County, Florida and to implement the Bay County Comprehensive Plan pursuant to Chapter 163, Part II, Florida Statutes.

Section 2. SHORT TITLE. This ordinance shall be known as "Amendments to the Bay County Land Development Regulations, Sections 108, 1305, 1702, 1711, 1803, 1911, 2302, 2303, and 3005;"

Section 3. AMENDMENTS TO THE BAY COUNTY LAND DEVELOPMENT REGULATIONS, SECTIONS 108, 1305, 1702, 1711, 1803, 1911, 2302, 2303, AND 3005. Amendments to the Bay County Land Development Regulations, Sections 108, 1305, 1702, 1711, 1803, 1911, 2302, 2303, and 3005, as set forth on Exhibit 1 are hereby adopted.

Section 4. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decisions shall not effect the validity of the remaining portions hereof. The Board hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared illegal, invalid, or unconstitutional, and all ordinances and parts or ordinances in conflict with the provision of this ordinance are hereby repealed.

Section 5. EFFECTIVE DATE. This ordinance shall take effect as provided by law.

PASSED AND ADOPTED this 7th day of February 2012.

BOARD OF COUNTY COMMISSIONERS
OF BAY COUNTY, FLORIDA

ATTEST:

George B. Gainer,
Chairman

Clerk

Approved as to correctness and form:

Terrell K. Arline, Esquire

SECTION 108. Existing/Non-conforming Uses. All uses existing on the effective date of this Regulation or any amendment hereto that preexisted or were permitted pursuant to the 1990 Bay County Land Use Code, and have continued pursuant to the standards for nonconforming uses shall be considered nonconforming under the terms of this Regulation. Uses not legally permitted by this Regulation or the Bay County 1990 Land Use Code, or which did not preexist the Bay County 1990 Land Use Code, shall be considered illegal. This section is to protect the rights of property owners who have lawfully established and continuously maintained a use prior to the effective date of this Regulation. These non-conforming uses may continue in their present condition, but shall not be enlarged, expanded, extended or used for adding other structures or uses prohibited elsewhere in the same classification, except as provided for below. In addition, the following regulations apply to non-conforming uses.

1. Towers. In the case of a nonconforming tower, the Planning Commission may not increase the height of a nonconforming tower without approval via variance.
2. Lots. In those situations where a subdivision has been platted, approved by the County Commission, and recorded in the Official Records of Bay County or an individual parcel of land has been recorded in the Official Records of Bay County, one (1) dwelling unit shall be allowed. Development standards (i.e. lot size, setbacks, etc.) shall be consistent with the prevailing standards in the adjacent neighborhood.
3. Non-conforming lots due to Eminent Domain Proceedings. Any lot or parcel which shall be made non-conforming as a result of eminent domain proceedings instituted by any governmental agency shall be deemed a conforming lot or parcel for all purposes under these regulations.
4. Non-conforming Use or Structure of Premises. In any district, a lawful principal or accessory use of a premises existing on the effective date of this Regulation, or amendment of this Regulation, but not permitted thereafter, may continue or be resumed if destroyed, provided:
 - a. ~~It is not enlarged, increased, or extended to occupy a greater area than was occupied on the effective date of adoption or amendment of these regulations.~~
 - b. ~~It is not moved in whole or part to any portion of the lot other than that occupied by such use on the effective date of adoption or amendment of these regulations; and~~
 - c. ~~No additional structure is constructed or erected in connection with such non-conforming use.~~

- a. A nonconforming use can not be extended or expanded onto any separately described property. On the same property the extension or expansion shall be limited to 20% of the structure or property involved, or 5,000 square feet, which ever is less.
 - b. The expansion or extension must be used for the same type of activity or use as the nonconforming use.
 - c. Expansion or extension of the nonconforming use must not create an obvious nuisance or otherwise endanger the public health, safety, and welfare.
 - d. If it is damaged in excess of 51% of its then fair market value, any reconstruction shall comply with these regulations.
5. Abandonment of Non-conforming use of a Premises. If a non-conforming use of a premise has been abandoned for a period of twelve (12) consecutive months, it shall not thereafter be re-established. After abandonment of a non-conforming use, any future use shall conform to these regulations.
6. Certificate of Non-conforming Use. The owner of a non-conforming use or structure may register such non-conforming use or structure by filing with the Planning Official a notarized statement. Such registration may be made on behalf of the owner when a notarized letter of authorization is received accompanying the statement.
 - a. The Planning Official may require specific documentation relating to the non-conforming status of the use or structure. Such documentation may include, but is not limited to, occupational licenses, state agency permits, utility bills, and tax bills.
 - b. The Planning Official may deny any registration if it appears that the documents relied upon are not valid, or that the documents produced do not show the existence of a prior nonconforming use in accordance with this Regulation.
7. Exceptions. Designated historical sites and structure, which are non-conforming, shall be exempt from these regulations.

Occupancy and use of existing cleared land and/or existing, vacant structures reduces the potential for damage to natural resources, promotes urban in-fill development, and decreases the need for new

infrastructure services. The County shall support the use and limited expansion of nonconforming land uses to accomplish this objective.

- a. Nonconforming land uses may be used, occupied and continued in a nonconforming manner under the following conditions and circumstances.
 - i. The nonconforming use must have been lawfully in existence at the time this Code was adopted.
 - ii. When a nonconforming use is discontinued for a consecutive period of 1 year, or discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes.
 - iii. Continuation of a non-conforming use must be for the same type or category of use as was initially authorized. North American Industry Classification Manual classifications shall be used to determine whether or not a proposed use is the same type or category of use as the existing nonconforming use.
 - iv. The nonconforming use must not be extended onto any piece of property, which was not part of the original, permitted use.
 - v. Continuation of the nonconforming use must not create an obvious nuisance or otherwise endanger the public health, safety, and welfare.
 - vi. The owner or tenant of a nonconforming use may not change the use unless the use is consistent with the Comprehensive Plan Future Land Use Element and this Code.
 - vii. Single-family homes existing as of the date of adoption of this Code are considered to be conforming uses not subject to the provisions of this Code; however, any redevelopment of the single-family home must meet all other plan requirements.
 - viii. Designated historical sites and structures, which are nonconforming, shall be exempt from these provisions.

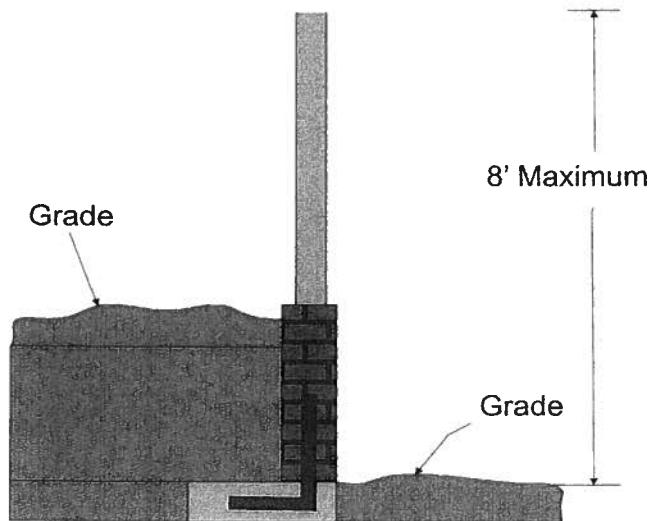
- b. A nonconforming use may be expanded or extended without regard to compliance with this Section provided all of the following circumstances and conditions are met.
 - i. A nonconforming use can not be extended or expanded onto any separately described property. On the same property the extension or expansion shall be limited to 20% of the structure or property involved, or 5000 square feet, whichever is less.
 - ii. The expansion or extension must be used for the same type of activity or use as the nonconforming use.
 - iii. Expansion or extension of the nonconforming use must not create an obvious nuisance or otherwise endanger the public health, safety, and welfare.

SECTION 1305. Fences, and Hedges and Walls. All fences, walls and vegetative hedges located in the Urban or Suburban Service Areas shall comply with the following requirements.

1. All fences to be built shall comply with the Building Code in effect at the time of construction. The posts of each fence must be resistant to decay, corrosion, and termite infestation. The posts must also be decay resistant or pressure-treated for strength and endurance.
2. Fences, walls and hedges may be located in all front, side and rear yards. No fences, walls or hedges shall exceed four (4) feet in height when placed in the required front yard setback. ~~On a corner lot, no fences or hedges shall exceed four (4) feet in height from the rear of the structure to the front property line when placed in the required side yard setback adjacent to a street. With the exception of corner lots, each fence located in the side and rear yards beyond the front yard setback shall not exceed eight (8) feet in height.~~

The height of a fence, wall or hedge, combination thereof, shall be measured from the lowest adjacent grade within three (3) feet on either side of the fence. If a wall or wall/fence is built on top of a berm or retaining wall, the combined height of the fence and berm or retaining wall must not exceed the allowable fence height.

Fence Height Measurement Diagram



3. Notwithstanding the above, in areas where the property faces two (2) roadways or is located in any other area construed to be a corner lot, the vision triangle as set forth in Section 2613 of this Code, shall apply.

4. A fence required for safety and protection of hazard by another public agency may not be subject to the height limitations, above. Approval to exceed maximum height standards may be given by the Planning and Zoning Manager upon receipt of satisfactory evidence of the need to exceed height standards.
5. No fence or hedge shall be constructed or installed in such a manner as to interfere with drainage on the site.
6. No fence or hedge shall be constructed or installed in any public right-of-way.

SECTION 1701. Purpose. It is the intent of the Board of County Commissioners to properly and effectively manage, control, guide, and monitor development by and through the regulation of development activities. The Board finds that a proper and effective means to this end is to require development orders and permits for certain regulated activities. The purpose of this Chapter is to describe such regulated activities and to further set forth the circumstances and procedures for issuing development orders or permits.

SECTION 1702. Development Order Required. Unless otherwise exempted by this Code, a Development Order shall be required for the following activities. It shall be unlawful to commence the following activities without first obtaining a Development Order or other permit required by this Code.

1. The clearing of land in anticipation of building construction or otherwise improving unimproved property for development. Land clearing activities require a permit pursuant to Subsection 2302.
2. The construction, location, or placement of any building or structure on any piece of land; or the use of land for the storage of equipment, vehicles, boats, materials, etc. whether such use is in conjunction with a building or not.
3. The expansion or extension of a nonconforming land use or structure as described in Section 108.
4. Any external additions or expansions to an existing building or structure which increases the size, area, or height of the building or structure (including parking areas) more than 20% or 5,000 square feet whichever is less, provided all other density, intensity and other applicable requirements are met.
5. The subdivision of land into three (3) or more lots or parcels. (Except as provided in Section 2902.2).
6. The storage of building materials on a piece of property in anticipation of development prior to the issuance of a ~~“Notice of Intent” specified in Section 1803.7 as it applies to Development Orders.~~
7. Construction of any public or private road by a nongovernmental entity. (See Chapter 26).
8. ~~The addition of more than 600 square feet of impervious surface materials of a commercial use.~~

SECTION 1711. Permits From Other Agencies. In addition to obtaining a Development Order from the County, the developer must also obtain all other applicable permits or exemptions as may be required by law. ~~In the event a Development Order from the County is prerequisite to obtaining other required permits, or at the request of the applicant, the Planning Official may issue a "Statement of Intent" which states that the proposed development is conceptually in compliance with this Code, and that issuance of a final Development Order is conditioned upon the developer obtaining all other required permits.~~ The developer must provide proof to the County that all permits or exemptions have been granted prior to obtaining a Certificate of Acceptance in accordance with Section 1807 of this Code. Development Order. Exemptions to this provision are as authorized by resolution of the Board of County Commissioners for bona fide "fast track" projects that yield significant economic development benefits.

Other required permits may include, but not be limited to:

1. Northwest Florida Water Management District for water well permits, surface water management, stormwater, and environmental resource permitting.
2. Florida Department of Health and Rehabilitative Services (HRS) for septic tank permits.
3. Department of Environmental Protection (DEP) for stormwater management issues, jurisdictional determinations, dredge and fill permits, wastewater collection, transmission and water distribution, CCCL permits, etc.
4. Army Corps of Engineers for dredge and fill permits, issues impacting federal waters, navigable waterways, jurisdictional determinations, etc.
5. Florida Department of Transportation (FDOT) for road improvements, access permits, connections, etc.
6. Federal Aviation Administration for structural height permits to include FAA Form 7460-1 Notice of Proposed Construction of Alteration. This form shall be submitted to FAA at least 60 days prior to construction for:
 - a. All proposed development greater than 200 ft. in height above ground level at its site; or
 - b. All proposed development of a height greater than an imaginary surface extending outward and upward at a slope of 100:1 and within 20,000 ft from the nearest point of the nearest runway of the Panama City Bay County International Airport.

SECTION 1803. Development Review Procedures. All persons wishing to obtain a Development Order authorizing development activities in the unincorporated area must comply with the following procedures.

1. Applicability. Most development undertaken in Bay County must undergo development review. However, the following low-intensity activities are not subject to development review by the Planning and Zoning Division.
 - a. Construction of ~~one~~ four single-family, ~~two~~ duplex, triplex, or quadraplex residential dwellings or placement of ~~one~~ four mobile home or manufactured housing units, or combination thereof not exceeding four dwelling units, on an individual lot or parcel of land when such development is not part of a larger, common plan of development.

When making a determination as to whether or not a particular project is part of a larger, common plan of development the following criteria shall be used.

- i. Size of the property involved and the number of units that could be built based on allowable densities.
- ii. Whether or not the property involved has been subdivided and the timing of such subdivision.
- iii. Unity of ownership, ownership interests, and business relationships of the owner(s) including family members or partnerships.
- iv. Similarity of development plans on subdivided parcels.
- v. The extent to which the proposed development project, when viewed as a whole, would be feasible on a subdivided parcel independent of the larger parent parcel, e.g. common driveways, parking areas, buildings straddling parcel property lines, etc.
- vi. Obvious intent to evade regulation or any other relevant information that would indicate a developer's obvious intent to build or place more than one single-family, duplex, triplex, quadraplex, or mobile home or manufactured home on one lot or parcel.
- vii. Obvious indicators of a larger, common plan of development including, but not limited to, multiple septic tank permits,

multiple water and sewer tap fees, multiple driveway permits, etc.

- b. Construction, placement, or location of accessory buildings and uses.
 - c. Remodeling, renovations, expansions, or other similar activity involving an increase in the size or square footage of any structure, including parking areas, provided such activity is less than 20% of the area of the existing structure or 5,000 square feet, whichever is less.
2. **Application for Development Approval.** Any person wishing to undertake any development in the County must first complete an "Application for Development Approval." Applications shall be in a form prescribed by the Planning Official and must be completed by the verified owner of the property for which the development is proposed; or his verified authorized agent.

A complete application will constitute a request for development approval when submitted to the Division in conjunction with a site plan and other pertinent information required herein. An application shall not be deemed "complete" until all required information is accurately submitted, including a site plan, landscaping plan, and all applicable fees are paid by the applicant. The review period will not begin until deemed complete by the Planning Official.

3. **Withdrawal of Applications.** Applications may be withdrawn by the applicant at any time prior to issuance of a final Development Order, however, any applicable fees or charges shall be forfeited.
4. **Completeness Review.** The Planning Official or his designee shall be responsible for the review of complete applications for development approval. Any such review shall be conducted in the following manner.
 - a. Applications shall be reviewed on a preliminary basis and deemed "complete" or "incomplete" within twenty (20) working days after the application is received in the Planning and Zoning Division after such preliminary review. The Planning Official shall provide written notification to the applicant regarding the application's completeness. In the case of incomplete applications and subsequent to such a determination, the applicant will be notified in writing specifying the deficiencies and setting forth an itemized list of the information required. No further actions shall be taken until the deficiencies are corrected and the application resubmitted.

- i. Appeal avenues for an applicant to challenge any application deemed "incomplete" by the Planning Official shall be as stated in Section 209.
- b. Within sixty (60) days of notification, the applicant shall provide all additional information required and resubmit the application. If the additional information is not submitted, the applicant must:
 - i. Withdraw the Application.
 - ii. Request one sixty (60) day extension.
- c. If the applicant does not provide the additional information and resubmit the application within these timeframes, the Planning Official shall deny the application.
- d. Within 15 days of receipt of the additional information, the county shall review it and may only request additional information that is needed for clarification. Clarification is not the submitted of additional data, but achieving an understanding of the information provided.
- e. The Planning Official shall approve or deny an application within thirty working (30) days after the date the application is deemed complete or within fifteen (15) days after receiving additional information for clarification. Any such approval or denial will be supported by relevant findings, which shall become part of the permanent record in the matter. The applicant shall be notified in writing as to the disposition of his application and the findings made.
- f. Notwithstanding the above, the County may review and approve applications pending state or federal permits (parallel permitting), but withhold issuing a Development order until all permits are issued and compliance is confirmed.

5. **Fees and Charges.** The Board of County Commissioners may establish and periodically adjust a schedule of fees and charges for development review. No formal review shall be undertaken or development order issued until all applicable fees and charges have been paid.
6. **Required Certifications.** Required certifications from design professionals must be completed and affixed to applicable drawings or documents before final approval is issued. Additional certifications may be required by the Building Official.

7. Notice of Intent to Issue a Final Development Order. Public notice to approve a Final Development Order shall be advertised in a newspaper of general circulation at least seven (7) days in advance of issuance.

SECTION 1911. Tree Protection. No property owner, builder, contractor, landscaper, business, firm or other legal person shall remove, destroy, or damage a protected tree Historic, Specimen, Champion or Heritage tree located in the Urban or Suburban Service Area, or any Historic, Specimen, Champion or Heritage tree without first obtaining a permit from the Planning and Zoning Division. The following requirements shall apply to the removal of protected trees. In order to safeguard protected trees during development activities, the protective measures specified in Section 1916 shall be followed.

1. **Protected Trees.** A "protected tree" is any Historic, Specimen, Champion or Heritage tree ~~hardwood tree or coniferous tree other than pine species of Quercus (common name: "oak")~~, with a diameter at breast height of eighteen (18) thirty inches (30") or more.
2. **Exemptions.** Tree protection requirements shall not apply under the following circumstances and conditions.
 - a. **Single-Family Dwellings.** Construction, location, or placement of a single-family dwellings and customary accessory uses when protected trees are located within the actual building or structure "footprint".
 - b. **Utility Operations.** Excavation, tree pruning and removals by duly constituted communication, water, sewer, electrical or other utility companies or federal, state, or county agencies, or engineers or surveyors working under a contract with such utility companies or agencies shall be exempt, provided the activity is limited to those areas necessary for maintenance of existing lines or facilities or for construction of new lines or facilities in furtherance of providing utility service to its customers, and provided further that the activity is conducted so as to avoid unnecessary removal and, in the case of aerial electrical utility lines, is not greater than that specified by the National Electrical Safety Codes as necessary to achieve safe electrical clearances. All pruning and trimming shall be done in accordance with National Arborist Association Standards. Written notice of the areas where authorized work is anticipated shall be provided to the Division at least five (5) days prior to the work, except that when the work is needed to restore interrupted service under emergency conditions, no prior notice is required. Excavations affecting historic, specimen, champion, or heritage trees shall be limited to utility maintenance work only.
 - c. **Site Investigations.** Activities associated with surveying, soil borings or geotechnical research and other related activities when the removal is the minimum necessary to undertake the activity.

- d. Rights of Way. The clearing of a path for existing or new roadway rights of way, provided that the rights of way are for existing roadways that are built in conformance with County standards or for new roadways that will be built in conformance with County standards. The width of the path shall not exceed the right of way width standards for each type of roadway established in this Code.
- e. Commercial Growers. All commercial nurseries, botanical gardens, tree farms, grove operations and other bona fide agricultural activities shall be exempt from the provisions of this part, but only as to those trees and sites which were planted or managed for silvicultural or agricultural purposes or for sale or intended sale in the ordinary course of business, or those parcels receiving agricultural assessment for ad-valorem taxation per Florida S.S. 193.461.
- f. Nuisance Trees. All trees listed on the Florida Exotic Pest Plant Council's List of Invasive Species or the Florida Department of Agriculture and Consumer Services, "Noxious Weeds" rule in Section 5B-57, F.A.C.

3. Conditions for Tree Removal Permit. It is the intent of this section to minimize the removal of protected trees. No permit shall be granted to remove a tree if the applicant has failed to take reasonable measures to design and locate the proposed improvements so that the number of protected trees to be removed is minimized. In particular, the design must attempt to preserve specimen, champion, heritage and historic trees.

- a. No permit for the removal of a protected tree shall be granted unless the applicant demonstrates one of more of the following conditions:
 - i. The intended, permissible use of the site cannot reasonably be undertaken unless specific trees are removed or relocated.
 - ii. The tree is located in such proximity to an existing or proposed structure that the safety, utility or structural integrity of the structure is materially impaired.
 - iii. The tree materially interferes with the location, servicing or functioning of existing utility lines or services.

- iv. The tree creates a substantial hazard to motor, bicycle or pedestrian traffic by impairment of vision.
- v. The tree is diseased, insect ridden, or weakened by age, abuse, storm or fire and is likely to cause injury or damage to people, buildings or other improvements.
- vi. The removal of the tree is necessary to promote the growth of surrounding protected trees. Under this provision, the applicant must demonstrate a preference for protecting historic, champion, specimen, and heritage trees.

4. Pruning Protected Trees. Pruning of protected trees shall be in accordance with current standard practices of the International Society of Arboriculture or the National Arborists' Association.

5. Historic, Specimen, Champion, and Heritage Trees.

- a. An historic tree is one that has been designated by the Bay County Commission as one of notable historical interest and value to the County because of its location or historical association with the community.

A public hearing shall be held by the County Commission on the designation with due notice to the owner of the tree.

- b. A specimen tree is one that has been officially designated by the County Commission to be of high value because of its type, size, age, or other relevant criteria. A public hearing on the designation shall be held by the County Commission with due notice to the owner of the tree.
- c. A champion tree is one that has been identified by the Florida Division of Forestry as being the largest of that species in the State of Florida or by American Forests as being the largest of that species in the United States.
- d. A heritage tree is any tree with a diameter of at least thirty inches (30") or more, as measured at 4.5 feet above ground or at the appropriate point on the trunk as indicated by accepted forestry standards.
- e. No historic, champion, heritage or specimen tree shall be removed without a finding by the Planning Official that the tree is a hazard or

that it is not economically or practically feasible to develop the parcel without removing the tree.

6. Preservation of Protected Trees and Native Vegetation as Grounds for Reduction in Required Parking.
 - a. A reduction of required parking spaces may be allowed by the Planning Official when the reduction would result in:
 - i. The preservation of a protected tree with a trunk of twelve (12) inches in diameter or greater; or,
 - ii. The preservation of native shrubs and/or ground cover in a quantity exceeding minimum requirements.
 - b. The reduction in required parking may be granted only if it will prevent the removal of a protected tree or native vegetation that is located within the area of the site designated as vehicular use area. The following reduction schedule shall apply:

Reduction Schedule	
Number of Required Parking Spaces	Reduction of Required Parking Spaces Allowable
1-4	0
5-9	1
10-19	2
20 or above	10% of total number of spaces (total reduction regardless of number of trees or percentage of native vegetation preserved)

SECTION 2302. Land Clearing. The term "land clearing" means the removal or demolition of structures, or the uprooting or clearing of vegetation in connection with construction for buildings, rights of way, residential, commercial, or industrial development, or the initial clearing of vegetation to enhance property value; but does not include mowing, routine landscaping, or lawn maintenance activities. No person, landowner, business, contractor, or firm may engage in land clearing of property greater than three (3) acres in size without first obtaining a land clearing permit. Land clearing permits shall be issued by the Development Services Department and may be issued as part of a Development Order. ~~Any clearing of lots, parcels, or other land greater than three (3) acres in size must be authorized as part of an approved Development Order associated with a specific plan of development for the land involved.~~

1. **Exemptions.** A land clearing permit is not required for the following.
 - a. Land clearing associated with bona-fide agricultural or silvicultural activities on lands designated on the Future Land Use Map or tax roll for such purposes.
 - b. Land clearing associated with any governmental or public purpose.
 - c. Except for protected trees as specified in Subsection 1911, permits are not required for landscaping or land clearing which is required to comply with other regulations or ordinances, or land clearing for the purpose of eliminating nuisances or eyesores.
2. **Requirements.** The Planning Official or his designee may approve, approve with conditions, or deny a land clearing permit after consideration of the following criteria.
 - a. Whether or not the land clearing will be done in conjunction with a development order;
 - b. Size and location of the land area to be cleared;
 - c. Number of protected trees on the site;
 - d. The potential for erosion and sedimentation during and after land clearing; Erosion control measures may be required both during and after clearing;
 - e. Potential for destruction of valuable wildlife habitat;

- f. Potential for damage or destruction of valuable environmental resources;
- g. The purpose or reason for the proposed clearing;
- h. Compliance with all other applicable provisions of state law and this Code, and;
- i. Whether or not the activity authorized by the permit can be reasonably expected to cause a violation of State water quality standards.

3. Stormwater Discharge Permits. In situations where a State stormwater discharge permit is required (Ch.62-25, FAC) no land clearing permit may be approved until such time as a state permit is issued.
4. Erosion control measures (e.g. silt fence, hay bales, etc) shall be used to control potential erosion caused by land clearing activities adjacent to water bodies including ditches, ponds, creeks, streams, branches, rivers, lakes, bayous, and bays. Any such erosion control shall be erected and maintained so as to prevent the escape of silt and soil materials into adjacent water bodies.

SECTION 2303. Adequate Grading. Each lot, site, or parcel to be developed shall be adequately graded at the time of building construction. Adequately graded means that topographic elevations of the structure or building foundation in relation to the surrounding site are constructed so that: 1) stormwater runoff will drain away from the structure or building being developed; 2) stormwater runoff will be retained on-site and not discharged onto adjacent properties, and or; 3) stormwater runoff will be discharged into an approved stormwater management or drainage system. The finished floor elevation of all buildings will be a minimum of one (1) foot higher than the elevation of the centerline of the adjacent road(s) or otherwise be approved as part of an acceptable drainage plan. No lot, site, or parcel shall be graded in such a manner as to cause stormwater runoff discharges onto an adjacent property across any property line unless such discharge is part of an approved stormwater management or drainage system (see Chapter 24). No person shall grade any earth or soil material on any land without first obtaining a grading permit. Grading permits shall be issued by the Development Services Department and may be issued as part of a Development Order.

1. Exemptions. No permit shall be required for the following activities.

- a. Grading for utilities or governmental operations, such as drainage structures, mosquito control ditches, or permitted landfills.
- b. Grading for stormwater control structures when authorized pursuant to this Code and all applicable permitting agencies.
- c. Grading associated with dredge and fill activities on submerged lands when authorized by this Code and all applicable permitting agencies.
- d. Grading required by governmental agencies, when properly supervised by a certified contractor or a government agency.
- e. Grading associated with agricultural or silvicultural activities.

2. Standards for Issuance of Permit. Grading permits shall be granted or denied in consideration of the following standards.

- a. Permits shall be granted or denied by the Planning Official subsequent to application and review procedures specified in paragraph 3 of this Section, or in conjunction with an application for development approval.
- b. No permit shall be granted for any grading which will result in a public hazard or a threat to the public health, safety, and welfare.
- c. The proposed grading will not have an undue adverse impact upon adjacent properties in the general vicinity, parking, utilities or other public facilities.
- d. All reasonable measures must be undertaken to minimize noise, dust, dirt, air contaminants, vibration and other potential nuisances.
- e. The proposed grading must not disrupt, damage, or otherwise adversely impact upon any ditch, swale, culvert, storm-water retention pond, or other drainage/stormwater control structure.
- f. The proposed grading must not contribute to pollution of surface waters or groundwaters, or otherwise cause degradation of state water quality standards.

- g. The proposed grading must be designed and located so as to minimize physical and visual impact to adjacent properties.
3. Application Procedures. Grading permits shall be granted or denied based upon application forms to be provided by the Division. Grading permits may be granted as part of an approved site improvement activity or in conjunction with a development order provided the proposed grading is clearly shown on the overall development site plan submitted pursuant to Section 1803 of this Code.
4. Approvals. Grading permits may be issued by the Planning Official after concurrence from the Public Works Department.

SECTION 3005. General Sign Standards. The following general sign standards shall apply to all non-exempt signs within the County.

1. Except as provided hereafter, no sign shall be established closer than 15 feet to a street right-of-way. ~~Notwithstanding the foregoing, a~~ Any on-premises sign which is open and does not obstruct visibility from the ground to nine feet above the ground, may be established as close as five feet from the property line. If no building setback line exists, the sign may be established to the property line. No portion of any sign may be placed ~~on, or extended over,~~ the right-of-way line of any street.

Notwithstanding the foregoing, the Planning Official, in consultation with the Public Works Department Traffic Engineer, may allow a sign to be established closer to a street right-of-way or property line provided an adequate line-of-sight is maintained that insures safe vehicular, bicycle, and pedestrian movements. Denial of a sign closer to a right-of-way or property line does not preclude an applicant from seeking a variance in accordance with Section 208 of this Code.

2. The vertical edges of all back-to-back signs (that is the vertical surface generally perpendicular to any face of such sign) shall be covered and finished with a permanent, opaque material so that no unfinished portion of the sign structure will be visible between the faces of the sign.
3. The back of all free-standing signs and all visible portions of a free-standing sign structure shall be covered or finished with a permanent, opaque material.
4. All signs shall be constructed in accordance with the applicable building and electrical codes.
5. The minimum lowest point ground clearance on all free-standing signs shall be either less than two or more than nine feet, so as to either prevent or allow persons to walk under or through the sign or sign structure.
6. Sign height shall not exceed the building height limitation of the area or district in which it is located and no free-standing sign shall exceed 50 feet in sign height.
7. If illuminated, signs shall be illuminated only by the following means.
 - a. By white, steady, stationary, electric light of reasonable intensity shielded and directed solely at the sign.

- b. Any light from an externally illuminated sign or floodlight used to illuminate a sign shall be shaded, shielded, or directed so that the light intensity or brightness shall not interfere with the safe vision of motorists or bicyclists. No illuminated sign shall cast light to exceed four tenths (.4) maintained foot candle illumination onto property designated as residential on the county future land use map.
 - c. Any light from an internally illuminated sign shall not exceed ten foot candles measured at a distance of ten feet from the sign.
 - d. All electrically illuminated signs shall have a disconnecting switch located in accordance with the provisions of the National Electric Code.
 - e. All illuminated signs shall require both a sign permit and an electrical permit prior to installation.
 - f. Lighting, including neon tubing or other similar devices other than indirect lighting, may be used in sign design or to outline any building. Building outlining with neon tubing or other special lighting effects is restricted to two linear feet of neon tubing to each foot of frontage. Neon tubing or other special lighting effects when used in sign design is restricted to two linear feet of neon tubing or the like for each foot of frontage. Display of neon tubing or other special lighting effects will be limited to the maximum of two parallel lines of neon tubing.
8. The following signs shall be designed, signed and certified by a Florida registered engineer, who shall submit sufficient data to enable the county to determine whether the sign complies with applicable building and structural codes.
 - a. Free-standing signs exceeding 100 square feet in sign area.
 - b. Projecting signs over 24 square feet in sign area.
9. No sign shall be erected or displayed near a street, driveway or bicycle path intersection so as to constitute a traffic hazard as determined by the Planning Official.