

# Article 1 – General Provisions

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## 1.1 Title

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This code shall be officially entitled the "Land Development Code (LDC) of the City of Crescent City, Florida," and may be referred to as the "Crescent City Land Development Code," the "Land Development Code," "the LDC," or "this LDC".

## 1.2 Authority

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The City Commission of the City of Crescent City is authorized to adopt this LDC in accordance with Article VIII, Section 2(b) of the Florida Constitution, the charter for the City of Crescent City, Chapter 166 of the Florida Statutes (the Municipal Home Rules Powers Act), F.S. § 163.3202, and all other relevant laws of the State of Florida.

## 1.3 References

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When any provision of this LDC refers to or cites a section of the Florida Statutes (F.S.) or Florida Administrative Code (FAC), or any federal law, and that section is later amended or superseded, this LDC shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

## 1.4 General Purpose and Intent

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The general purpose and intent of this Land Development Code is to promote public health, safety, welfare, and the good order and appearance of the City; to conserve the taxable value of land and buildings within the City, to protect the character and maintain the stability of residential and nonresidential areas; and to promote the orderly and beneficial development of the City. More specifically, this LDC is intended to do the following:

- A. Implement the goals, objectives, and policies of the City's comprehensive plan.

- B. Establish comprehensive, consistent, effective, efficient, and equitable standards and procedures for the review and approval of development.
- C. Respect the rights of landowners while considering the interests and goals of the City's residents.
- D. Ensure land uses and development are configured and located in a rational and efficient manner.
- E. Support and encourage vibrant, pedestrian-friendly mixed-use development with placemaking elements in the City's central business district.
- F. Support and encourage high quality development and redevelopment along the Summit Street corridor that is consistent with its context.
- G. Promote a high quality of architectural design, development form, and quality of life.
- H. Protect the character of existing and new residential neighborhoods from incompatible development.
- I. Protect the City's open space, habitats, wetlands, floodplains, lakes, and other natural resources.
- J. Protect unique historical and cultural structures in the City.

### 1.5 Applicability and Jurisdiction

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The provisions of this LDC shall apply to the development of all land within the corporate limits of the City of Crescent City, unless it is expressly exempted by a specific section or subsection of the LDC.

#### 1.5.1 Application to Governmental Units

- A. The provisions of this LDC apply to development by the City and land owned or held in tenancy by the City or its departments.
- B. To the extent allowed by law, the provisions of this LDC also apply to development by any county, the State of Florida or its agencies, and the Federal government or its agencies or departments.

#### 1.5.2 Compliance Required

- A. No development shall occur within the corporate limits of the City without full compliance with the provisions of these LDCs and all other applicable City, County, State, and Federal regulations.
- B. No development shall occur within the City without the appropriate permits for that purpose.
- C. Except as otherwise provided for in this LDC, no permits for development, including building permits, will be issued until an appropriate development order or other development approval has been issued by the City.
- D. Improvements constructed in accordance with an approved development order or other development approval may not be placed into service or otherwise used until the required certificate of occupancy or completion is issued.
- E. No rezoning, development order, development, or permit may be issued relating to any land that is the subject of code enforcement action or that otherwise violates this LDC regardless of whether the applicant or the landowner owned the property at the time the violation occurred. However, this subsection will not prevent issuance of a permit for the specific purpose of resolving or abating the violation.
- F. All development shall remain in compliance with the terms and conditions of all development approvals and permits even after issuance of a certificate of completion.

### **1.5.3 Emergency Exemption**

Consistent with state law, the City Commission may, by resolution and without any otherwise required prior notice or public hearing, authorize City agencies or departments to deviate from the provisions of this LDC during an emergency when the need to act quickly to secure the public health, safety, or welfare makes it impossible to submit to the normal procedures and requirements of this LDC.

### **1.5.4 Minimum Requirements**

The standards and requirements of this LDC shall be construed to be the minimum requirements necessary for meeting the general and specific requirements of this LDC.

## **1.6 Consistency with the Comprehensive Plan**

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This LDC is intended to ensure all development within the City is consistent with the goals, objectives, policies, and Future Land Use Map (FLUM) within the City's comprehensive plan. However, situations may arise in the daily administration and enforcement of this Code whereby strict interpretation and enforcement of the Code may be contrary to the goals, objectives and policies of the Comprehensive Plan. Such situations may arise due to changes in land development priorities or economics, new issues which were not anticipated at the time this Code was drafted and adopted, or the inability to meet competing goals through a single action. In this situation, the goals and policies of the Comprehensive Plan shall take precedence, and the Code shall be interpreted and administered consistent with the overall goals, objectives and policies of the Comprehensive Plan as interpreted by the City Commission, until such time the Code and/or Comprehensive Plan can be amended to resolve any conflict.

## **1.7 Relationship to other ordinances, laws, private agreements, and rights**

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### **1.7.1 Conflicts with other City regulations**

If the provisions of this LDC are inconsistent with one another or if the provisions of this LDC conflict with provisions found in other adopted codes, ordinances, or regulations of the City, the more restrictive provision shall govern unless the terms of the provisions clearly specify otherwise.

### **1.7.2 Conflicts with State or Federal Law**

If a provision of this LDC is inconsistent with a provision found in the laws or regulations of the state or federal government, the more restrictive provision shall prevail, to the extent permitted by law.

### **1.7.3 Conflicts with private agreements**

If the provisions of this LDC conflict with the provisions of private easements, covenants, or restrictions, and the provisions of the LDC are more restrictive, the terms of the LDC shall apply. The City shall not be responsible for monitoring or enforcing private easements, covenants, agreements, or restrictions, although the City may inquire as to whether land is subject to easements, covenants, agreements, and restrictions during the review of applications for development permit.

### **1.7.4 Vested Rights**

Nothing in this LDC is intended to repeal, supersede, annul, impair, or interfere with any vested rights under applicable law, provided such rights are lawfully established and remain in effect.

#### **1.7.4.1 Vested Rights Determination**

- A. It shall be the applicant's burden to affirmatively allege and establish the existence of vested rights. Following receipt of a complete application, if the applicant does not request the opportunity to present additional evidence to the City Manager, the City Manager shall issue a written vested rights determination ("the Vested Rights Determination") within sixty (60) days of the date of determination that the application is complete.
- B. The applicant may request the opportunity to present additional evidence to the City Manager, and any such request shall be granted. The City Manager, in consultation with the City Attorney, may conduct a hearing to evaluate the applicant's evidence, and may require that all testimony be submitted under oath. In the event a hearing is conducted, a recording or transcript of the hearing shall be made. Within sixty (60) days following the conclusion of the hearing, the City Manager shall issue a written Vested Rights Determination.
- C. The Vested Rights Determination shall contain findings of fact and conclusions of law and shall include the legal description of the property to which it applies. The Vested Rights Determination shall set forth whether the project or development is vested, in whole or part, for consistency or concurrency, or both and whether the project or development is subject in whole or part to this Land Development Code. The Vested Rights Determination may contain reasonable conditions necessary to effect the purposes of this Land Development Code and the Comprehensive Plan. It shall state that the Vested Rights Determination is subject to expiration in accordance with this or subsequent ordinances. The City Manager may consult with the City Attorney in connection with the drafting and issuance of a Vested Rights Determination.

#### **1.7.4.2 Appeal of Determination**

- A. Any applicant may appeal to the City Commission the City Manager's Vested Rights Determination. The appeal shall be filed with the City Clerk within thirty (30) days following the rendering of the City Manager's Vested Rights Determination. This time is jurisdictional. The City Commission's review of the Vested Rights Determination shall be based solely upon a review of the application and the evidence in support thereof submitted to the City Manager. The City Commission shall take final action on the appeal within sixty (60) days from the date the appeal is filed with the City Clerk. The decision of the City Commission shall be final, subject to judicial review.
- B. Notwithstanding any provision contained herein to the contrary, the Vested Rights Determination shall not be final until all review costs incurred by the City in connection herewith have been paid in full by the applicant.
- C. Judicial review of the Vested Rights Determination made by the City Commission is available and shall be by common-law certiorari to the circuit court.

#### **1.7.4.3 Health, Safety, and Welfare Consideration**

Nothing contained herein shall preclude the City from requiring a project or development to comply with any Land Development regulations adopted subsequent to the issuance of the Final Development Order or the obtaining of vested rights if the City Commission deems such compliance essential to the protection of the health, safety, and welfare of the citizens of Crescent City.

## 1.8 Official Zoning Map

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### 1.8.1 Establishment

The Official Zoning Map is established by this LDC. It designates the location and boundaries of the various zoning districts and planned development districts identified by this LDC.

### 1.8.2 Incorporated by Reference

The Official Zoning Map, which may consist of one or more maps and include explanatory notation is incorporated into this LDC by reference. The City may maintain the Official Zoning Map as an electronic map layer in a Geographic Information System (GIS). The official copy of the electronic version of an Official Zoning Map shall be recorded onto permanent media to

ensure all the electronic information is protected. A copy of the Official Zoning Map shall be on file in the office of the City Clerk and available to the public during normal business hours.

### 1.8.3 Changes to the Official Zoning Map

- A. Changes made in zoning district boundaries on the Official Zoning Map shall be considered an amendment to this LDC.
- B. The City Manager or their designee shall make the appropriate changes to the Official Zoning Map within a reasonable amount of time after the amendment is approved by the City Commission.

### 1.8.4 Interpretation of District Boundaries

When boundaries of districts of the Official Zoning Map are uncertain and require interpretation, the following rules apply:

- A. *Boundaries Following Centerlines.* Boundaries indicated as approximately following the centerlines of roads, highways, or alleys will be construed to follow such centerlines.
- B. *Boundaries Following Lot, Section or Tract Lines.* Boundaries indicated as approximately following lot lines, section lines, or tract lines will be construed as following such lot lines.
- C. *Boundaries Following Municipal Boundaries.* Boundaries indicated as approximately following City boundaries will be construed as following such City boundaries.
- D. *Boundaries Following Shorelines.* Boundaries indicated as approximately following the shorelines or centerlines of lakes, streams, or canals will be construed to follow such shorelines or centerlines.
- E. *Vacated Lands.* Where a public road, street, alley, or other form of right-of-way is officially vacated, the regulations applicable to the property to which the vacated lands attach will also apply to such vacated lands.
- F. *Uncertainties.* Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or in case any other uncertainty exists as to the proper location of district boundaries, the City Manager or their designee shall interpret the intent of the Official Zoning Map as to the proper location of the district boundaries.

## 1.9 Transition Rules

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### 1.9.1 Violations Continue

Any violation of the previous LDC of the City shall continue to be a violation under this LDC and shall be subject to the penalties and enforcement set forth in Article 10 Enforcement and Remedies, unless the use, development, or other activity complies with the express terms of this LDC.

### **1.9.2. Nonconformities**

If any use, structure, lot of record, or sign was legally established on the date of its development but does not fully comply with the standards of this LDC including standards relevant to site configuration, then the use, structure, lot of record, or sign shall be considered nonconforming and subject to the provisions of Section 1.10 Nonconformities.

### **1.9.3 Completed Applications**

Any complete application submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this LDC, shall be reviewed and considered in accordance with either the provisions of the previous LDC, or the provisions of this LDC, at the applicant's option.

### **1.9.4 Development Approvals and Permits under Previous Land Development Code**

- A. Any structure or development for which a final subdivision plat, approved site plan, or building permit was granted prior to the effective date of this LDC may be constructed in accordance with the development approval and any other approved permits and conditions, even if the development does not comply with one or more general development standards set forth in this LDC.
- B. If the development for which the final subdivision plat, approved site plan, or building permit was issued prior to the effective date of this LDC fails to comply with any established timeframes for development the plat, site plan, or building permit shall expire and future development shall be subject to the requirements of this LDC.

## **1.10 Nonconformities**

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The provisions of this LDC or its amendment have caused or will cause some uses, structures, buildings, and lots of record to be nonconforming. It is the intent of this LDC to permit these nonconformities to continue until they are removed, but not to encourage their continuance except under the limited circumstances established in this section. The provisions of this article are designed to curtail substantial investment in nonconformities to preserve the integrity of this LDC.

### **1.10.1 Determination of Nonconformity Status**

- A. In all cases, the burden of establishing that a nonconformity lawfully exists shall be on the owner of the land on which the purported nonconformity is located.
- B. The casual, temporary, or illegal use of land or structures shall not be sufficient to establish the existence of a nonconformity, nor does it create rights to continue the nonconformity.

### **1.10.2 Nonconforming Uses**

For purposes of this LDC, the term "nonconforming use" means a use or activity which was lawful prior to the adoption of this LDC or an amendment of this LDC, but which fails, by reason of such adoption or amendment, to conform to the use requirements of the zoning district in which it is located. A nonconforming use of land may be continued subject to the provisions of this subsection.

### **1.10.3 Enlargement or Replacement**

A nonconforming use of land or a building or building and land in combination may not be enlarged in area or replaced by another use not specifically permitted in the applicable zoning district.

#### **1.10.4 Discontinuance**

Land or building used in whole or in part for a nonconforming use, which use is subsequently discontinued for a continuous period of six (6) calendar months, shall not again be used except in conformity with the regulations then in effect. The intent of the owner, lessee, or other user is not relevant in determining whether the use has been discontinued.

#### **1.10.5 Damage**

When a structure housing a nonconforming use is damaged to an extent of more than fifty (50) percent of its replacement value at the time of the casualty, its status as a nonconformity terminates, and it shall not be restored except as a conforming use.

#### **1.10.6 Nonconforming Structures or Buildings**

For purposes of this LDC, the term "nonconforming building or structure" means a building or structure which was lawful prior to the adoption of this LDC or an amendment of this LDC, but which fails, by reason of such adoption or amendment, to conform to the proper development requirements of the zoning district in which the building or structure is located due to its size, dimension, or location on the lot. A nonconforming building or structure may be continued, subject to the provisions of this subsection.

- A. A structure or building which is lawful in all respects except for a setback requirement may be enlarged, provided that:
  - 1. The enlargement is otherwise permitted; and
  - 2. The enlargement itself, including any enlargement which increases the height or volume of the structure, complies with all the setback requirements.
- B. A structure or building which is lawful in all respects except for lot area requirements may be enlarged, provided that:
  - 1. The enlargement is otherwise permitted.
  - 2. All other development standards such as setbacks, height, bulk, lot coverage, parking, and open space are met.
  - 3. The enlargement does not increase the density or intensity of use.
- C. A structure or building which is lawful in all respects except for height may be enlarged, provided that:
  - 1. The enlargement is otherwise permitted; and
  - 2. The enlargement complies with height and setback requirements.
- D. A structure which is lawful in all respects with the exception of lot coverage shall not be enlarged.
- E.

#### **1.10.7 Repairs, Reconstruction, or Renewal of Existing Structure or Building**

Deteriorated structures or structures damaged by fire or other natural forces up to 50 percent or less of its assessed value prior to damage may be reconstructed at, but not to exceed, the legally documented actual use, density, and intensity existing at the time of destruction, thereby allowing such structures to be rebuilt or replaced to the size, style, and type of their original construction, including their original square footage; provided, however, the affected structure, as rebuilt or replaced, complies with all applicable federal and state regulations, City building and life safety regulations, and other local regulations that do not preclude reconstruction.

### **1.10.8 Legal Nonconforming Lots**

- A. For purposes of this LDC, the term "legal nonconforming lot" means a lot of record with a minimum area or dimensions that were lawful prior to the adoption of this LDC or an amendment of this LDC, but which fails by reason of adoption or amendment of this LDC to conform to the requirements for the zoning district in which the lot is located. The burden of proof that the lot is legally nonconforming, and lawfully existed at the specified date, shall be with the owner.
- B. Such lots shall be in separate ownership and not be contiguous to other lots in the same or substantially the same ownership. This provision shall apply even though such lot fails to meet the requirements of this Article for area, width, depth and frontage or any combination thereof, provided yard dimensions and requirements other than those applying to area, width, depth, or frontage shall conform to the requirements of this Article. If a nonconforming lot is contiguous to another lot in the same or substantially the same ownership, such lots shall be considered to be an undivided parcel for the purpose of this Article.
- C. The existence of a roadway dividing a parcel of land shall not determine whether the parcel is considered to be two separate lots. Each portion of the parcel must have a separate legal identity for the parcel to be considered two separate lots.

### **1.10.9 Lots of Record**

For the purpose of this subsection, a lot is created on such date one of the following conditions occur:

- A. The date a deed for the lot is lawfully recorded in the public records of Putnam County.
- B. The date a subdivision plat is lawfully recorded in the public records of Putnam County, if the lot is a part of the subdivision.

### **1.10.10 Construction on Legal Nonconforming Lots**

In any district in which residential dwellings are permitted, notwithstanding district dimensional requirements, a single-family dwelling and customary accessory buildings may be erected on any legal nonconforming lot. This provision shall apply even though such lot fails to meet the requirements applying to area or width, or both, of the lot and shall conform to all other regulations for the district in which such lot is located. Development on platted lots without frontage on an improved roadway, and/or without access to public utilities shall not be permitted.

### **1.10.11 Nonconforming Site Features**

For the purposes of this LDC, nonconforming site features are perimeter buffers, screening, landscaping and off-street parking which does not meet the minimum requirements of this LDC.

- A. Properties with nonconforming site features shall come into compliance with the minimum requirements of this LDC when the use of the parcel is discontinued for a period of six (6) calendar months.
- B. Parcels with nonconforming site features shall come into compliance with the minimum requirements of this LDC when the use or structure is expanded.
- C. Issuance of development permits for normal repairs and maintenance of structures, including, but not limited to, repair or replacement of roof covering, structural walls, fixtures, wiring or plumbing, shall not trigger compliance with the minimum screening or buffer requirements.
- D. Where the Development Review Committee staff determines full compliance with the requirements of this section is precluded by a lack of sufficient developable area due to the size of the lot, the layout of existing development, or the presence of significant wetlands, floodplains, waterbodies, or other significant environmental constraints on development, the



applicant shall comply with the requirements of this section to the maximum extent practicable, as determined by the Development Review Committee.

- E. To encourage redevelopment and to avoid requiring an excessive amount of parking spaces to serve a non-residential redevelopment project, the Development Review Committee (based on reasonable evidence) may defer the provision of some portion of the off-street parking standards required by this Code if previous experience within the City for such a use or information supplied by the developer suggests that the required number of parking spaces and/or other parking standards may not be necessary. A structure, lot, or parcel of land rendered nonconforming as to area, width, depth, setbacks, lot coverage, or parking because of a taking through eminent domain proceedings, by the voluntary sale of a parcel of land under the threat of eminent domain proceedings by a governmental authority, or by the voluntary donation of land to a governmental authority, shall be deemed conforming only for the items affected by the eminent domain action.

### 1.11 Appeal Procedures

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- A. In the event any person believes a City official has made an interpretation or determination under the Land Development Code that adversely impacts such person to the extent that such decision results in a deprivation of the reasonable and beneficial use of the land which is the subject of the adverse interpretation or determination, then such person may appeal such decision to the City Manager by submitting an appeal application with the applicable application fee to the City Clerk's office within fifteen (15) days of the adverse decision being communicated to such person. The City Manager shall review the decision of the city official and render a decision on the appeal within thirty (30) days of receipt of the written notice or appeal.
- B. Any person may subsequently appeal the decision of the City Manager to the City Commission. Any such appeal to the City Commission must be filed with the City Clerk by submitting an appeal application with the applicable application fee within fifteen (15) days of the adverse decision by the City Manager being communicated to such person. The City Commission shall review the decisions of the city official and City Manager within sixty (60) days of the date of filing such appeal. The decision of the City Commission shall be final and binding.
- C. An appeal of a decision made by any advisory board/commission may be filed by any interested party by submitting an appeal application with the applicable application fee to the City Clerk's office within thirty (30) days of the adverse decision being communicated to such person. Any person aggrieved by a decision of the City Commission may file a petition for a writ of certiorari in a Court having competent jurisdiction for Putnam County. The petition must be filed with the court within fifteen (15) days after the date of the final action of the City Commission. Appeals to the City Commission will be de novo.