

DEVELOPMENT PROCEDURES MANUAL

Section 2-3. Limited Development Order (LDO) Process

2-301. Limited Development Order Scope

The following procedures and standards apply to the review of and decision on applications for a limited development order. Approval of a limited development order is required prior to the issuance of a building permit. A limited development order approval shall be required for the following.

A. Type A. Any improvements to the land determined by the Director to have no adverse impacts on public facilities in accordance with applicable standards of measurement in this LDC (vehicular trips, amount of impervious surface, gallons per day, etc.), including up to 100 square feet of additional impervious surface and any Notice of Intent to Commence Water Retention Excavation for an agricultural use or as an amenity to a single-family residence where blasting activities will not be conducted and where no more than 1,000 cubic yards of spoil will be removed offsite.

B. Type B. A cumulative addition or enlargement of an existing impervious area, provided that the addition or enlargement does not increase the total impervious cover area by more than 2,500 square feet and there is no increase in the rate of runoff from the project site.

C. Type C. Any out-of-door type recreational facilities, such as swimming pools, tennis courts, tot lots, and other similar facilities, provided the total cumulative additional impervious area does not exceed 5,000 square feet, including any Village or county-initiated improvements for public water access purposes in Village or county-owned or maintained rights-of-way.

D. Type D This category includes the following:

(a). Any other improvement to land determined by the Director to have insignificant impacts on public facilities in accordance with applicable standards of measurement in this LDC (vehicular trips, amount of impervious surface, gallons per day, etc.), and

(b) The installation of new utility lines in existing right-of-way or easements, and

(c) Improvements to a Village or county maintained road right-of-way.

E. Type E. Any subdivision of land into two residential lots where the zoning district regulations permit such subdivision; provided, however, that:

1. Each lot shall meet or exceed all requirements of the zoning district in which it is located, or the subdivision is approved by the Director under the provisions of this LDC, and the overall development complies with all other requirements of this LDC;

2. No more than two lots may be created from an original parent parcel as it existed on January 28, 1983;

3. Except single-family detached dwelling units, two-family attached dwelling units or bona fide agricultural uses, no development may occur on either of the lots without first obtaining a development order;

4. If the parent parcel is 10 acres or greater, a protected species survey may be required as specified in this LDC;
5. Each lot shall abut and have access to a road that meets the minimum construction standards set forth in this LDC and is consistent with the maximum density requirements of this LDC;
6. No significant alteration of existing utility installations is involved;
7. No change in drainage will occur that adversely impacts the surrounding properties;
8. Creation of new road rights-of-way or road easements, and the construction of new roadways or upgrading of existing roadways to meet the minimum standards contained in this LDC will require development order approval; and
9. Reasonable conditions may be attached to the approval so that any development on the lots will comply with all Village LDC requirements.
10. An application for a lot split shall include all parcels under common ownership, including any abutting residual parcels, if under common ownership with the property subject to the lot split and are part of the original parent parcel as the parent parcel existed on January 28, 1983. If all lots are not under common ownership, the applicant shall provide proof that the applicant made a bona fide, good faith effort to request by certified mail, return receipt requested, all other property owners to join in the lot split application. Proof of the current property owner's refusal to consent to the lot split or the failure of the current property owner to respond to the applicant's request, after a reasonable time for a response, will obviate the need to include that parcel. Further development on any lots that do not join in the lot split application may not occur until the lot has been legally created in accordance with the provisions of this LDC. A lot split may only be approved once.
11. All parcels, including residual parcels, shall conform to the minimum prop

2-302. Preapplication Meeting.

Preapplication meetings are not required for Limited Development Order applications but applicants are encouraged to participate when there may be unusual conditions or questions associated with the application

2-303. Review procedure; action by Director and Staff.

- (a) The Limited Development Order process is administrative. No public meetings or public hearings or public notices are required. The application procedure is shown in the flowchart in LDC Figure 2-505.B.2.
- (b) The Director shall issue a limited development order approval letter and will stamp the approved development order drawings with an appropriate development order approval stamp.
- (c) A limited development order shall automatically expire if the development authorized by the limited development order is not constructed or substantially commenced within 3 years after the date of the approval.
- (d) A limited development order approval shall automatically expire if the development authorized by the limited development order is discontinued and not resumed for a period of 1 year.

- (e) A limited development order may be modified in accordance with the procedures and standards for its original approval.

2-304. Applicant procedure following denial of Limited Development Order technical completeness by Director and Staff.

- (a) Where the approval of technical completeness of the application for a Limited Development Order and the submittals pursuant thereto is not approved, then the applicant may do either of the following:
 - (1) Redraft and resubmit the submittals required for approval in accordance with the review procedure described above; or
 - (2) Appeal the denial of the Limited Development Order submittal in accordance with the provisions of Appeal of Director Decision outlined in LDC Section 2-409 A.2.
- (b) Subsequent to notification that the plans have not been approved due to deficiencies, the applicant has 30 days to submit a supplement or corrected drawings or plans setting forth those corrections and changes necessary to remedy the deficiency. If the supplement is not submitted within 30 days, the application will be deemed withdrawn unless the applicant requests an extension and waives in writing the statutory development order review deadlines in F.S. § 125.022, as it may be amended. The maximum response timeframe may not exceed 180 days.
- (c) Where the applicant is required to redraft and resubmit to pursue approval of an application, the applicant will submit such revised drawings, plans, reports, calculations, etc., as may be deemed necessary by the Director to substantiate compliance with the LDC.

2-305. Limited Development Order Review standards.

A Limited Development Order shall only be approved upon a finding that the applicant demonstrates there is competent substantial evidence in the record all of the following standards are met:

- a. The proposed development and uses in the development plan comply with all applicable requirements of the LDC and is consistent with the Village comprehensive plan;
- b. For legal nonconformities, any nonconforming elements of the site except for use are corrected by the proposed plan;
- c. The development proposed in the development plan has no significant adverse effect upon surrounding land uses;
- d. The development proposed in the development plan has no significant adverse effect upon public facilities in the area;
- e. The development proposed in the development plan does not adversely affect the environmental quality of the area;
- f. The development proposed complies with all conditions of approval in any development approval to which the plan is subject; and

g. If any part of the limited development order requires a plat, the plat is approved in accordance with Sec. 2-502.C, Plat Review, and is in substantial conformance with the development order.

2-306. Contents of Limited Development Order.

A development order shall contain the following:

- (1) Incorporation by reference of all submittal documents required for a Limited Development Order application; and all other documents prepared for approval of the Limited Development Order;
- (2) A list of all permits which must be obtained;
- (3) Any other conditions which the Director deems appropriate in accordance with the LDC; and
- (4) A signature clause or affidavit, to be signed by the duly authorized representative, which will bind all owners and run with the land.

2-307. Effect of approval of Limited Development Order.

If all applicable state and federal permits and approvals have been obtained, the issuance of a Limited Development Order shall be authorization for the applicant to begin those site development activities specifically approved in the development order. Site development activities shall not occur before all applicable state and federal permits have been obtained, a vegetation removal permit has been issued and all required erosion control measures have been installed and inspected by the Village.

2-308. Limited Development Order Submittals-Generally.

The following submittals are required to apply for a Limited Development Order:

- (1) A completed application must be made on the application forms provided by the Village of Estero (see DPM Chapter 3 for Limited Development Order application forms).
- (2) A plan depicting the site and location of all buildings or structures on it.
- (3) An area location map showing the location of the proposed work in relation to arterial and collector streets.
- (4) A written description of the proposal and the reasons why it should be approved.
- (5) A copy of any building permits and approved site plan, if applicable.
- (6) Any additional necessary or appropriate items which the Director may require. Additional data may include copies of deeds, sealed surveys, calculations, and completed applications for any state, federal or local permits, including the South Florida Water Management District (see the specific application forms in DPM Chapter 3 for detailed submittal requirements).

(7) Except as may be specifically waived by the Director, the documents and graphics required to apply for a development order will be as specified in this Development Procedures Manual and the Land Development Code.

(8) All drawings must be drawn on 24-inch by 36-inch sheets at an appropriate scale no greater than 1:50. If more than one sheet is required, appropriate match lines must be indicated. Drawings intended to provide context for the overall development may be provided at a scale greater than 1:50.

(9) All drawings must be oriented so that north is towards the top or left of the drawing. A title block must appear in the lower right hand corner or along the right side of the sheet. Each sheet must be signed and, where appropriate, sealed by the professional consultant preparing the drawing.

(10) The following information must be provided on all submitted drawings:

(1) The name of the proposed development and the date the drawing was completed. If a revision, the revision dates must be included.

(2) The name, address and telephone number of the person preparing the drawings.

(3) The name and address of the owner.

(4) North arrow and scale.

(11) More specific information regarding LDO application requirements is provided below in DPM Section 2-311.

2-309. Limited Development Order Submittal Requirements-waiver.

The Director may waive the requirement for any submittal item deemed unnecessary for an adequate review of the proposed development. Such a waiver of the required number or nature of submittals must be approved prior to submission of the Limited Development Order application and does not constitute a change in the substantive standards or requirements of the LDC or Development Procedures Manual (DPM).

2-310. Limited Development Order Review Fee

The applicant is required to provide payment of the review fee with the Limited Development Order application. Any submittal after denial of the application also requires the payment of a resubmission fee. See Chapter 3 of this Development Procedures Manual (DPM) for fees associated with applications.

2-311. Limited Development Order Application Form and Contents-Generally

The application forms for Limited Development Order approval are available in the Chapter 3 in the Development Procedures Manual. There is a separate application form for each specific type of application; e.g. Type A, Type B, Type C, Type D, and Type E, which list the general submittal

requirements. The following information must be included in the application for a limited development order, if applicable:

(a) *Affidavit of Authorization.* A notarized statement signed by the applicant, under oath, that he or she is the authorized representative of the owner of the property and has full authority to secure the approval requested and to impose covenants and restrictions on the referenced property as a result of the issuance of a development order in accordance with this Code. The signed statement also constitutes an acknowledgment that the property will not be transferred, conveyed, sold or subdivided unencumbered by the covenants and restrictions imposed as part of the development order. (See DPM Chapter 3 for Affidavit of Authorization form.)

(b) *Owner, applicant and developer information.*

1. The name of the project or proposed development. The name should be limited to 25 characters and spaces and not duplicate any prior approved development approval.
2. A brief description of the requested scope of the application.
3. The name, address, email and telephone number of the applicant.
4. The name, address, email and telephone number of the property owner.
5. The name, of the party responsible for the application. This entity will be the primary contact and will receive all correspondence relative to the application.

(c) *Property information.*

1. Property STRAP number. Where there are multiple STRAP numbers, all must be provided.
2. The street address of the property.
3. The property dimensions and area.

(d) *General development information.*

1. The Village of Estero Comprehensive Plan Future Land Use Category.
2. The present zoning classification of the property and Resolution or Ordinance number if applicable.
3. A list of development order number for approvals on the property.
4. A copy of any Pattern Book approved as part of any zoning action on the subject property must be provided.
5. All federal, state and local permits, applications and stipulations affecting the Limited Development Order application.
6. The current use of the property.
7. The proposed or intended use of the property.

(e) *Comprehensive Plan Consistency Statement.* A statement regarding consistency of the project with applicable Comprehensive Plan policies and provisions must be submitted with the application for review and approval. A density calculation is also required to demonstrate consistency with the density requirements of the Comprehensive Plan.

(f) *Additional Agents.* A listing of the professional consultants employed in preparing the application or submitted documents. The names, addresses, email and telephone numbers shall be provided for consultants such as but not limited to architects, engineers, attorneys, landscape architects, planners, surveyors.

(g) *Site Plan.* A site plan must be provided on 36"x24" paper, to scale, illustrating at a minimum: existing and proposed lot lines; existing buildings; uses; streets; accessways; off-street parking; water management facilities; landscaping and buffering; open space; and any structures on adjacent property which may be affected by the requested development.

(h) *Exotic vegetation removal plan.* When Prohibited Invasive Exotic Plants listed in LDC Table 5-403 A. are present on the development property, an exotic vegetation removal plan, as specified in LDC Section 5-403.A. shall be submitted with the development order application.

(i) *Landscape Plan.* A landscaping plan must be submitted showing not less than the required open space and buffer areas, and including: a tree location map or aerial photographic overlay which depicts the preservation of existing trees and the planting of any new trees required by Village regulations; all proposed landscaping, fencing, screening and buffering; the size, variety, species and number of all trees and shrubs, with site-specific location, used in landscaping, open space and buffer areas; all proposed signs (proposed monument signs must be shown in detail and must comply with the LDC standards and definition for monument signs); and the calculations to determine the minimum open space and other landscaping and buffer calculations.

(j) *Utility Plan.* A plan must be provided showing the location and size of all water mains and services, fire hydrants, sewer mains and services, treatment plants and pumping stations, together with plan and profile drawings showing the depth of utility mains and points where utility mains cross one another or cross storm drain or water management facilities. The location of services shall be shown.

(k) *Exterior lighting plan, photometrics and calculations.* An exterior lighting plan and photometric information must be submitted for all street lighting and parking lot lighting. The plan and photometric information must be provided in full compliance with Section 5-601 through 5-608 of the Land Development Code and must demonstrate compliance with all standards and criteria specified therein. Details must include the type and color of all light poles and fixtures as well as CCT and BUG rating for all LED luminaire fixtures. (see LDC Section 5-604).

(l) *Drainage Plan.* A drawing showing the location of all curbs and gutters, inlets, culverts, swales, ditches, water control structures, water retention or detention areas, and other drainage or water management structures or facilities shall be submitted. Sufficient elevations shall be shown to adequately show the direction of flow of stormwater runoff from all portions of the site. A copy of all drawings and calculations submitted to the South Florida Water Management District shall also be submitted. Detailed calculations must be provided to ascertain the sizing and capacity of all drainage facilities and compliance with policies included in Comprehensive Plan policies included in INF-1.1 and

the Village Stormwater Master Plan. The plans shall also identify the U.S. Department of Agriculture Soil Conservation Service soils classifications of the site to determine the feasibility of the proposed pollution control and drainage plans.

(m) *Traffic Impact Study.* A traffic impact statement (TIS) must be submitted that surveys current and anticipated traffic conditions and public transportation in order to identify potential traffic problems posed by the proposed development. Adverse traffic impacts created by the development, both on-site and off-site, must be mitigated by the applicant as specified in the traffic impact mitigation plan and development order. Criteria for traffic impact statements are specified in the Traffic Impact Study Guidelines for Development Orders provided in Chapter 4 of this Development Procedures Manual. The Turn Lane Policy is provided in Chapter 4 of this Development Procedures Manual.

(n) *Protected species survey.* A protected species survey must accompany all applications which are greater than 10 acres in size or contain 2 or more acres of impervious area and where the Florida Land Use, Cover and Forms Classification System codes for the property indicate a possible presence of species listed in LDC Appendix G, Protected Species list (See LDC Section 7-201.C.2.). The survey must be prepared by using survey methods which are set forth in administrative code in Chapter 4 of the Administrative Manual, except that an alternative method may be approved by the Director. Such survey must include Village of Estero listed species presence (sightings, signs, tracks, trails, nests, evidence of feeding, etc.), population estimates and occupied habitat boundaries. A map and narrative must describe the methodology as applied and the findings. The mapped information must be at the same scale as the development order or zoning application plans and an aerial map at a scale of one inch is less than or equal to 400 feet.

(o) *Protected species habitat management plan.* A management plan for protected species habitat shall be submitted, if applicable, as required LDC Section 7-201.C.2. A protected species habitat management plan meeting the requirements of LDC Section 7-201 C.3. will be required for all development order applications if listed species are found on the property.

(p) *Opinion of probable construction costs.* The developer's consultant must prepare and submit the estimated cost and estimated date of completion for the work of installing all streets, drainage systems, water management systems, potable water treatment and distribution systems, sewage collection and treatment systems, bikeways, pedestrian ways, park and recreation improvements, landscaping and buffers as follows:

1. Subdivisions: on-site and off-site improvements.
2. All other developments: off-site improvements.

(q) *Surety or cash performance bond.* Security in the form of a surety or cash performance bond must be posted with the Village Council and made payable to the Village in an amount equal to 110 percent of the full cost of installing the required improvements approved by the Village. If the proposed improvement will not be constructed within one year of issuance of the final development order, the amount of the surety or cash performance bond must be increased by ten percent compounded for each year of the life of the surety or bond. Alternatively, the surety or cash performance bond may be renewed annually at 110 percent of the cost of completing the remaining required improvements if approved by the Director. Prior to acceptance, bonds must be reviewed and approved by the Village

Attorney's Office. Surety instruments will be reviewed and approved in accord with the provisions set forth in Administrative Procedures for Plats (See DPM Chapter 4). The Village Council may accept letters of credit or escrow account agreements or other forms of security provided that the reasons for not obtaining the bond are stated and the Village Attorney approves the document. Review and approval of surety instruments will be in accord with the guidelines set forth in Administrative Procedures for Plats (See DPM Chapter 4).

(r) *Operation and maintenance covenants.* Where applicable (for example applications for subdivisions), a copy of the covenants used for the maintenance and operation of the infrastructure improvements required by this chapter including but not limited to private streets and adjacent drainage, drainage and storm water management systems, utilities, public water and sewage systems, on-site bikeways, on-site pedestrian ways, open space, parks, recreation areas and buffers. These documents must meet the criteria set forth in Administrative Procedures for Plats (See DPM Chapter 4).

(s) *Articles of incorporation or other legal documents for assignment of maintenance.* The developer must submit a copy of the legal documents creating the legal mechanism to ensure that the drainage system, on-site bikeways, on-site pedestrian ways, roadways and rights-of-way are continuously maintained. These documents must meet the requirements set forth in Administrative Procedures for Plats (See DPM Chapter 4).

(t) *Wireless Communications Facility-Shared Use Agreement.* A shared use agreement plan must be provided that commits the owner of the proposed antenna-supporting structure to accommodating future collocations where reasonable and feasible in light of these standards. The agreement is subject to review and approval by the Village Attorney (see LDC Section 4-143(l)2.).

(u) *Port Authority (Tall Structures) Permit.* A Tall Structures Permit must be secured from the Lee County Port Authority verifying compliance with Lee County regulations for all temporary and permanent structures that are more than 125 feet in height. A copy of that permit shall be submitted with the development order application.

(v) *Legal description and sketch to accompany legal description.* A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. ch. 177. If the subject property is one contiguous parcel, the legal description must specifically describe the entire continuous perimeter boundary of the property subject to the development order application with accurate bearings and distances for every line. If the subject property consists of undivided, platted lots, then a complete legal description (i.e. lot, block, subdivision name, public records recording information) of the platted subject property is required. A sketch of the undivided, platted lots is not required. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

(w) *Boundary survey.* A boundary survey of the property, including a metes and bounds legal description, must be submitted, unless the property consists of one or more undivided lots within a subdivision platted in accordance with F.S. Ch. 177. If the property consists of one or more undivided lots within a subdivision, then a copy of the subdivision plat may be submitted in lieu of the boundary survey unless the dimensions of the subject property differ from those in the original plat. (See DPM2-219(c) for further specifics regarding boundary surveys.)

(x) *Title certification.* Certification of title for property subject to development order approval must meet the following criteria:

1. *Form.* The certification of title must be in one of the following forms: i. Title certificate or title opinion, no greater than 90 days old at the time of the initial development order submittal. The title certification submittal must be either an opinion of title meeting the Florida Bar Standards prepared by a licensed Florida attorney or a certification of title/title certification prepared by a title abstractor or company. ii. Title insurance policy with appropriate schedules, no greater than five years old at the time of the initial development order submittal and an affidavit of no change covering the period of time between issuance of the policy and the application date. If submission of a complete affidavit of no change is not possible, a title certificate, or title opinion must be submitted in the alternative.

2. *Content.* The certification of title must include, at a minimum, the following: i. The name of the owner or owners of the fee title; ii. All mortgages secured by the property; iii. All easements encumbering the property; iv. The legal description of the property; and v. The certification of title documentation must be unequivocal.

2-312. Limited Development Order Application-Additional required specific submittals for Type E residential lot split.

The following must be submitted with an application for a Type E limited development order approval.

(a) *Legal description and sketch to accompany legal description* for parent parcel and each new parcel. A metes and bounds legal description along with a sketch of the legal description, prepared by a Florida Licensed Surveyor and Mapper, must be submitted. The documents must be in a form which satisfies the requirements for recording in the public records of Lee County. The Director has the right to reject any legal description that is not sufficiently detailed so as to locate the property on County maps.

(b) *Boundary survey.* A boundary survey of the property, including a metes and bounds legal description, must be submitted if there are structures existing on the property.

1. The boundary survey must identify and depict all easements affecting the property, whether recorded or unrecorded, and all other physical encumbrances readily identified by a field inspection.

2. Boundary surveys must meet the minimum technical standards for land surveying in the state, as set out in chapter 5J-17, Florida Administrative Code.

3. The Federal Emergency Management Agency flood zone and required finished floor elevations must be shown.

4. The survey must locate and depict all existing structures and improvements on the parcel.

(c) *Comprehensive Plan Consistency Statement and Density Calculation.* A narrative must be provided demonstrating that the proposed lot split is consistent with the Comprehensive Plan. A density calculation must be provide showing that the proposed lot split complies with the density provisions of the Comprehensive Plan.

2-313. Limited Development Order Amendments.

Limited Development Orders may be changed through a Limited Development Order amendment application. Any amendment to a LDO is restricted to the originally approved LDO scope including the development parcel and the original schedule of development. If the proposed amendment is deemed by the Director to not qualify as an amendment, a new LDO application must be filed with a new application fee and the original LDO must be vacated. The decision of the Director is final and may not be appealed. The review procedure for an amendment shall follow the procedure for an LDO application.

2-214. Amendment to Limited Development Order Review Fee.

An application review fee is required for the review and processing of amendments to LDO. If the application is not deemed to be complete and is returned to the applicant for resubmission with more information, a resubmission fee is required. Such resubmission fees shall apply to any subsequent resubmissions required during the review. See Chapter 3 of this Development Procedures Manual for fees associated with applications.

2-215. LDO Amendment Application Form and Contents.

The application form for LDO amendment approval is available in Chapter 3 in this Development Procedures Manual. The following information must be included in any LDO amendment application:

- (a) A notarized statement signed by the owner or the authorized agent, under oath, that he or she is the authorized representative of the owner of the property and has full authority to secure the approval requested and that the information and documentation provided as part of the amendment application are honest and true to the best of his/her knowledge. provided with the application is honest and true to the best of his/her knowledge and belief.
- (b) All proposed changes must be itemized and adequately described with supporting documentation. Statements such as “see plan” are not acceptable Any changes in previously approved parameter(s) must clearly indicate the new parameter(s). If it is a resubmission of a previously non-approved amendment application, it must be noted as a resubmission (and the number of the resubmission if not the first).
- (c) All plans affected by the proposed amendment must be submitted with all of the changes highlighted on the revised or changed plans.
- (d) All review fees must be paid prior to review of the application by the Village.