

## Article 28 Appeal Procedures

### 402.176 Development Plan Appeals

#### (a) Petition Filing Deadline

Any person with legal standing who wishes to challenge a final decision on a development plan, including a denial of an application for preliminary development plan approval, shall file a written petition for hearing, along with the appropriate fee, with the Department within 21 days from the date of final decision. A person with notice of a final decision on a development plan who fails to file a written petition for hearing within 21 days waives the right to request a hearing on such matters.

#### (b) Contents of Petition

The petition shall include a sworn statement of the particular bases for the challenge, the specific Comprehensive Plan or ULDC provisions alleged to be applied in error, and the different result which would occur if the appropriate provisions were correctly applied.

#### (c) Referral to Hearing Officer

Upon receipt by the Director of a timely petition for hearing, the matter shall be promptly assigned to an administrative law judge from the Division of Administrative Hearings or to an independent hearing officer selected by the County who has been a member of the Florida Bar in good standing for the past five years. The Director shall file with the hearing officer the petition for hearing and the minutes of the meeting that the final decision on a development plan was made. The decision making body may reconsider its decision at any time prior to the start of the administrative hearing.

#### (d) Hearing Procedures

The hearing shall be conducted within 90 days of referral to the hearing officer, unless otherwise mutually agreed by the parties. Hearings shall be open to the public and shall be advertised in a newspaper of general circulation not less than 15 days prior to the date of the hearing. The hearing shall be a de novo proceeding (a new evidentiary hearing). Venue shall be in Alachua County. The applicant and the County shall equally share the cost of conducting the hearing, including the services of the hearing officer and court reporter. The following state administrative Uniform Rules of Procedure, with modifications noted below, are hereby incorporated by reference and shall govern the hearing: Rules 28-106.102 (Presiding Officer); 28-106.103 (Computation of Time); 28-106.104(1) through (6) (Filing; except that "agency clerk" shall refer to the applicable County Department); 28-106.105 (Appearances; except that parties may represent themselves without counsel and without meeting the requirements of a "qualified representative"); 28-106.109 (Notice to Interested Parties); 28-106.110 (Service of Papers); 28-106.204 (Motions); 28-106.204 (Intervention); 28-106.206 (Discovery); 28-106.208 (Notice of Hearing; except that the County shall prepare and serve the notice); 28-106.209 (Prehearing Conferences); 28-106.211 (Conduct of Proceedings); 28-106.212 (Subpoenas); and 28-106.213 (Evidence), Florida Administrative Code.

**(e) Burden of Proof**

A person challenging a final decision on a development plan shall have the burden of demonstrating that the decision is inconsistent with the Alachua County Comprehensive Plan or this ULDC, that the decision making body exceeded its authority, or that the decision is plainly erroneous or unreasonable. The decision making body's decision shall be entitled to a presumption of correctness.

**(f) Final Order**

Within the later of 45 days after the conclusion of the hearing or 45 days after the filing of the hearing transcript, if one is ordered, the hearing officer shall issue a written final order upholding or reversing the final decision on a development plan. The original of the hearing officer's written decision shall be filed with the Director and the clerk to the Board of County Commissioners, and copies shall be mailed to the applicant and other parties to the hearing.

**(g) Judicial Review**

Any person aggrieved by a decision of a hearing officer under this Chapter may challenge the decision in the circuit court for the eighth judicial circuit, but only if the person has legal standing. The County qualifies as a person with standing to appeal. If the aggrieved person decides to challenge the decision, he or she shall file a petition for writ of certiorari with the clerk of the circuit court not later than 30 days after the decision of the hearing officer is filed with the clerk to the Board of County Commissioners. The record before the circuit court shall consist of the complete record of the proceedings before the hearing officer. No person may apply to a court for relief from the development decision unless the person has first exhausted the remedies provided herein.

**(h) Effect of Challenges and Appeals**

The timely filing of a petition for administrative hearing or action or appeal in a court of law, challenging a final decision on a development plan, shall have the effect of staying the development approval, unless the applicant furnishes the County with a properly executed waiver of claims, release from liability and hold harmless instrument, in a form approved by the County Attorney, that protects the County from liability for the issuance of further development permits for the project while the legal challenge is pending. No construction, building, or other development permits that depend upon the development approval shall be issued, unless the aforementioned waiver is provided.

**402.177 Development Revocation**

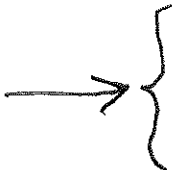
**(a) Initiation of Revocation, Modification or Suspension of Development Approval**

Development approval, including but not limited to rezonings, plats, site plans, development plans, certificates of level of service compliance for concurrency requirements, vested rights determinations, and construction and building permits, may be revoked, modified, or suspended by the Board of County Commissioners, at a public hearing upon due public notice, when it has been demonstrated and found that the development approval was granted on the basis of a clear and material misrepresentation of fact by the applicant or on the basis of a clear and material error of law, or there has been clear and material noncompliance with the conditions for approval. A proposed action to revoke, modify, or suspend a



# EXHIBIT A

## SCHEDULE OF FEES AND CHARGES FOR SERVICES

Originating Department	Description of Service to be Furnished	Fee
<b>GROWTH MANAGEMENT</b> (352) 374-5243	<b>BUILDING PERMITTING AND CODES ENFORCEMENT:</b> <b>COMMERCIAL AND NON-RESIDENTIAL SOLID WASTE PERMITS:</b>	
	Original Application Fee Annual Renewal Fee	\$70.00 \$35.00
	<b>EXCAVATION AND LANDFILL ANNUAL INSPECTION:</b>	
	Active Excavation and Landfill Special Use Permit for Construction and Demolition Debris or Excavation	\$1,626.00
	Active Excavation and Landfill Special Use Permit-Clean Fill Only	\$813.00
	Inactive Excavation and Landfill Special Use Permit	\$350.00
	<b>TREE REMOVAL PERMIT FEE:</b>	
	Per application at time of submission	\$90.00
	<b>DEVELOPMENT REVIEW COMMITTEE:</b>	
Notice of Development Activity Signs (per sign)	\$10.00	
Hear and decide <u>appeals of decisions of the Development Review Committee</u> ; the Zoning Administrator on sign permit applications; and hear and decide other land use cases as directed by the County Commission - <u>Hearing Officer</u>	<u>\$1,000.00 / day</u>	
<b>Notes:</b>		
Building Permit Fees shall be submitted at the time of building permit application No Building Permit Applications will be accepted without the required permit fee All Public, Private, and Governmental Entities shall be required to pay building permit fees		