

CHAPTER 400. PERMIT TYPES AND APPLICATIONS

SECTION 407. RELIEF APPLICATIONS

407.7. Unintended Consequences Relief

A. Background

Beginning with the issuance of the Urban Land Institute Report evaluating the County's development regulations and planning framework, the County has embraced change and taken dramatic action to move forward in implementing the Report Recommendations.

1. Pasco County adopted a restated Land Development Code with an effective date of January 1, 2012.
2. The restated Land Development Code restructures the County's land development permitting and procedures that had been in place for more than thirty (30) years.
3. As recommended by the Urban Land Institute, Pasco County embraces the concept of certainty in the development review process. As such, many items that had been required to undergo public hearing reviews have been moved to administrative review.
4. The restated Land Development Code amended the relief procedures available to development applications. Prior to the restatement of the Land Development Code, variances were used both in the traditional sense of providing relief where the strict application of the Code would create an unnecessary hardship rendering the land difficult to use because of some rare and unique physical attribute of the property itself and also as a relief valve where requirements of the Code were recognized as not working. Generally, the restated Code has placed variances in accord with standard case law on variances and categorizes them as zoning variances.
5. Because the restated Code generally no longer provides for as liberal as a relief mechanism as the prior variance provisions, there is concern that, should the restated Code be internally inconsistent, or create an unknown or unintended consequence, an affected applicant would be without means of redress other than requesting a Code amendment.

B. Intent and Purpose

It is the intent and purpose of this section to provide a relief mechanism for the internally inconsistent, or unknown and unintended consequences, if any, of the restated Land Development Code that is timely and efficient for affected applicants. However, this section is not intended to be used to circumvent the requirements of the Land Development Code as it existed on

December 31, 2011, or achieve a result that is inconsistent with State or Federal law, should it be determined that an inconsistency, or unknown, or unintended consequence has resulted from the restated Land Development Code. It further is the intent of this section to provide a means by which the County can be made aware of and address inconsistencies and unknown or unintended consequences of the restated Land Development Code in a timely manner. This section shall remain in effect until June 30, 2014, at which time it shall automatically sunset without any further action by the Board of County Commissioners (BCC).

C. Procedures

1. Application. Applications for unintended consequence relief shall be filed on forms and with the information required by the County Administrator or designee. The application shall include:

- a. A description of the problem presented by the imposition of the restated Code provision(s), including citations of the restated Code, to the development application and the relief requested.
- b. A summary of how the relief desired is necessitated by the amendment to the Land Development Code in October 2011. This can include changes to the Code which require additional action on the part of an applicant or opportunities for relief which are no longer available to the applicant.
- c. An explanation as to why no other form of relief provided by this Code is appropriate to address the inconsistency or unintended consequence or a summary of action taken by the applicant to utilize the other relief remedies provided by this Code.

2. Review Procedures

- a. The application shall be reviewed by the Assistant County Administrator for Development Services (ACA/DS) or designee. The ACA/DS shall:
 - (1) Review the information accompanying the application.
 - (2) Evaluate whether the relief requested is due to an inconsistency of or an unknown or unintended consequence of the restated Land Development Code.
 - (3) Recommend approval, denial, or modification of the relief requested.
 - (4) Recommend whether an amendment to this Code is necessitated by the information discovered during the review of the application.

b. A recommendation shall be presented to the Planning Commission (PC) by the ACA/DS or designee within four (4) weeks of the application for Unintended Consequence Relief being filed.

c. The PC, after hearing the application, may:

(1) Approve the request for relief;

(2) Approve the request for relief with conditions; or

(3) Deny the request for relief.

In no case shall the relief granted exceed that which could have been achieved prior to the restated Land Development Code to the extent that such relief is consistent with State and Federal law.

d. The PC shall also make a recommendation to the BCC as to whether this Code needs amendment due to the issues identified in the application review. This recommendation shall be presented to the BCC at its quarterly Land Development Code update.