

47 Applicant shall mean and refer to an owner or an owner's authorized agent who submits
48 an application, proposal, petition or project to the city.

49 Application, for purposes of this chapter, shall mean and refer to an application, petition
50 or proposal submitted to the city pertaining to development for which city approval is required,
51 and shall include the following:

52 (i) Comprehensive plan amendment.

53 (ii) Concurrency determination.

54 (iii) Development agreement, formulation and review.

55 (iv) Development of regional impact.

56 (v) Final subdivision plat, including any revisions to a previously approved or existing
57 subdivision or plat.

58 (vi) Special exception.

59 (vii)Planned unit development.

60 (viii) Preliminary development plan.

61 (ix) Final development plan.

62 (x) Rezoning (with or without a comprehensive plan amendment).

63 (xi) Variance request.

64 (xii)Vesting determination.

65 (xiii) Impact fee agreements.

66 (xiv) Utility plans and agreements.

67 (xv) Site Construction plans.

68 (xvi) Any other development application or development order not listed above.

69 (xvii)Substantial change in any of the above.

70 City shall mean and refer to the City of Dunnellon, Florida.

71 City Code shall mean the City's Charter, Code of Ordinances, and Land Development
72 Regulations.

73 City consultant shall mean and refer to those companies, private consultants,
74 governments, individuals or other entities under contract with the city to provide services to
75 or for the city or who provide services to or for the city or who provide technical or legal
76 expertise to or for the city, including but not limited to, attorneys, engineers, planners,
77 environmental specialists, property appraisers and surveyors.

78 City staff shall mean and refer to city employees.

79 Owner shall mean and refer to an owner or group of owners of fee simple title to a
80 particular lot, tract, or parcel of real property.

81 Owner's authorized agent shall mean and refer to an agent of the owner duly authorized
82 to submit and process an application. If the applicant is not the property owner, a proper
83 authorization must accompany the application. Such authorization shall be evidenced by a

84 power of attorney signed by the owner and notarized specifically authorizing the agent to
 85 represent the owner in connection with the application and as to the owner's real property
 86 which is the subject of the application. The authorization shall include an agreement of the
 87 owner to be bound by the actions of the owner's authorized agent and the provisions of this
 88 chapter.

89 Review deposit shall mean and refer to a deposit of money, as established by this chapter,
 90 to be paid by an applicant at the time of the filing of an application as defined above.

91 Total development review amount shall mean and refer to the total amount of the review
 92 deposit to be paid by an applicant pursuant to Section 95-3 and any fees authorized to be
 93 collected by the city pursuant to its Code of Ordinances.

94

95 **Section 95-3. Review Deposits.**

96

97 (1) Required review deposits. A review deposit, payable to the City of Dunnellon by money
 98 order, personal or company check or cashier's check drawn on a financial institution
 99 authorized to do business in Marion County, Florida, shall be delivered to and collected
 100 by the city at the time of submission of each application. Said review deposit shall be
 101 utilized by the city to reimburse the city for the actual costs paid by the city incurred as a
 102 result of the review of the development activity. The amount of the review deposit to be
 103 collected shall be calculated and assessed in accordance with land use and acreage of land
 104 to be affected by the proposed development activity specified within an application as
 105 follows:

106

Parcel Size (acres)	Review Deposit Amount	
	Residential	Commercial
≤ 0.25	\$ 800.00	\$ 2,500.00
.26-.75	\$ 1,500.00	\$ 5,000.00
.76 - 1.99	\$ 2,500.00	\$ 5,000.00
≥ 2.0	\$ 5,000.00	\$ 5,000.00

107

108 (2) Review to Commence after Receipt of Fees and Deposits. No review of an application
 109 shall commence until the application fee and review deposit is paid. The total
 110 development review amount shall be forwarded to the city administrator prior to the end
 111 of the second business day following the submittal of said application for review or
 112 approval. The balance of the review deposit, if any, shall be returned to the applicant as
 113 provided for in Section 95-4. No interest shall be paid to applicant on any review deposit
 114 on account with the city.

115

116 (3) Administrative fee for review deposits. To mitigate the city's cost to administer and process
 117 a pass-through fee review deposit, an administrative fee equal to three percent of the
 118 actual costs of the review by the city consultant shall be paid to the city. This
 119 administrative fee shall be deducted from the review deposit.

120

121 **Section 95-4. Project account.**
122

123 Once an application pertaining or relating to an application has been submitted to the city and the
124 applicable total development application fee has been collected, the city administrator or his/her
125 designee shall establish an individual project account through which all fees, expenses and costs
126 incurred by the city which are associated with the applicable application will be monitored. The
127 project account will be maintained throughout the entire review, processing, inspection, and
128 regulation process until the latter of:

- 129 (1) Final action (after all appeal periods have run) by the city council has occurred with
130 respect to the application;
131 (2) No further significant involvement of the city staff or city consultants is expected to
132 occur;
133 (3) The city has been paid all of the amounts due under this chapter and the City Code; or
134 (4) The expiration of any warranty period associated with the conveyance or dedication of
135 improvements to the city.

136 Fees, costs and expenses for any city consultant time directly related to the review, processing,
137 inspection or regulation of any application or development pursuant to this chapter, the City Code
138 and/or State Statutes, and all other directly related expenses, including, but not limited to,
139 advertising, legal, inspection and engineering costs are to be charged to the project account.
140

141 **Section 95-5. City invoices.**
142

- 143 (1) *Payment.* The city administrator or his/her designee may periodically calculate the costs,
144 expenses and fees incurred by the city for each application for which a review deposit is
145 required and send an invoice to the applicant for payment. The applicant shall have ten
146 days from the date of the invoice to pay to the city the invoiced amount. Thereafter, if
147 payment is not received in the required time, the city administrator or his/her designee
148 shall apply the review deposit toward payment for the invoiced amounts. If the total of
149 the costs, expenses, and fees incurred by the city for an application for which a review
150 deposit is required exceeds the review deposit, and payment is not received in the required
151 time after invoicing, then the city administrator or his/her designee shall apply the review
152 deposit to the unpaid portion of the invoice and send a notice of nonpayment to the
153 applicant for the remaining amount of the invoice. The city administrator or designee
154 shall also send a notice to the applicant and to all city staff and city consultants associated
155 with the subject application or project, instructing them to cease all work relating to such
156 application or project unless and until further notified by the city administrator or his/her
157 designee. A copy of such notice shall be sent to the applicant.

158 Upon receipt of the notice, work by the city staff and city consultants on the application
159 or project shall cease, and neither building permits, certificates of completion, temporary
160 certificates of occupancy, nor certificates of occupancy will be issued with respect to such
161 real property. Continuation of the review of the application or project with respect to the
162 real property for which payment was not made will not be undertaken by the city until
163 such time as all outstanding fees, costs and expenses due under this chapter are paid in
164 full and a new review deposit paid to the city.

165 Unless otherwise provided for in this chapter, if an applicant receives or is granted
166 approval on an application or project or is issued a building permit, certificate of
167 completion, temporary certificate of occupancy, certificate of occupancy, occupational
168 license or other development order by the city, and additional fees, costs, expenses or
169 such other obligations attributable to the application are thereafter posted to the project
170 account for work that is associated with said approval or issuance, the applicant or his/her
171 successor in interest shall pay said costs, fees and expenses incurred by the city for such
172 application. The city shall send an invoice to the applicant or successor for such fees or
173 expenses, and the applicant or successor shall reimburse the city for such fees or expenses
174 within ten days.

175 (2) *Deficiency and liens.* Failure to pay an invoiced amount within the requested time shall
176 constitute a violation of this chapter. Any deficiency owed to the city, whether incurred
177 before or after project approval, shall bear interest from the date of the aforementioned
178 notice of non-payment at the rate of 18 percent simple interest per annum or otherwise at
179 the highest rate permitted by law until paid. The amount of any such deficiency owed to
180 the city shall, together with interest and the costs of collection as hereinafter provided,
181 shall be the personal obligation of the applicant and shall be a continuing lien on the real
182 property related to the application or project under review. Any subsequent or new owner
183 of the real property related to the application or project shall take title subject to the
184 obligations of the applicant under the terms of this chapter and shall be jointly and
185 severally liable for such obligations. An applicant may not escape liability for the
186 deficiency by abandonment of the application or project, withdrawal of such application
187 or sale of the real property with respect to which such application has been submitted. If
188 the initial or subsequent invoices are not paid in a timely fashion, and the invoiced amount
189 exceeds the amount of the review deposit, the city may take whatever legal means it
190 deems appropriate to collect the deficiency, including, but not limited to, retaining the
191 services of a collection agency or attorney, initiating legal proceedings for the collection
192 thereof, recording a notice of lien as hereinafter provided, and foreclosing same in the
193 same manner as mortgage liens are foreclosed.

194 If the project is subject to the provisions of a development agreement, and the applicant
195 is found to be in default of such development agreement, then it would be considered a
196 default of that agreement and whatever remunerative such development agreement calls
197 for would be applied, as opposed to the provisions called for in this chapter.
198

199 **Section 95-6. Required Payments.**

200
201 Payment for costs, expenses and fees incurred by the city under this chapter is a requirement for
202 the city's final approval of the application and project.

203
204 **Section 95-7. Assessable costs, expenses, and fees.**

205
206 All direct costs, expenses and fees incurred by the city that relate directly to the review, processing,
207 inspection, regulation or defense of an application, including, but not limited to, expenses incurred
208 by city consultants who review or defend the application at the direction of the city, as well as
209 other expenses related directly to advertising, surveying, legal review and/or engineering review
210 for an application or project shall be assessed to the applicant and reimbursed to the city.

211 Assessable expenses shall not include the cost of city employee time in reviewing such application,
212 as such time shall be deemed to have been reimbursed by the application fee.

213 City consultants shall submit records of their time, fees, costs, and expenses to the city
214 administrator or his/her designee and such fees, costs and expenses shall be invoiced to the
215 applicant on a dollar-for-dollar basis for services provided under the direction of the city to review.
216 The rates charged to the applicant for said services shall not exceed those charged to the city.
217

218 **Section 95-8. Objections/appeal.**
219

220 Any objection to any invoice or to any matter set forth in this chapter must be set forth in writing
221 and addressed and delivered to the city administrator on or before the tenth day after the date of
222 the relevant invoice. In the event the city administrator denies the objection, the applicant shall
223 have ten days after the date of the city administrator's written decision to file an appeal of such
224 decision with the city clerk or his/her designee, which appeal shall be heard by the city council.
225 All objections and appeals shall set forth in detail the reasons and evidence upon which the
226 objection and appeal are based. Failure of the applicant to establish beyond a preponderance of the
227 evidence that an invoice is not appropriate and is not based upon competent substantial evidence,
228 shall result in a denial of the objection and appeal.
229

230 **Section 95-9. Attorney's fees in the event of failure to pay review costs.**
231

232 In the event the city is required to enforce the provisions of this chapter, then the city shall be
233 entitled to recover from the applicant all costs and expenses incurred, including but not limited to
234 its reasonable attorneys' fees, paralegal fees and other costs and expenses, whether incurred prior
235 to, during or subsequent to court proceedings or on appeal, and/or in any bankruptcy proceedings
236 involving the applicant, the real property and/or the project being reviewed.
237

238 **Section 95-10. Change of ownership.**
239

240 An applicant shall provide prompt written notice to the city administrator in the event of a change
241 in ownership of all or a portion of a lot, tract, or parcel of real property with respect to which an
242 application, or project is pending before the city. Such notice shall be on a form approved by the
243 city and shall include the name, address and phone number of the new owner and a legal
244 description of the lot, tract or parcel of real property now owned by the new owner. Any such new
245 owner (i) shall not be entitled to utilize or draw upon any review deposit previously paid to the
246 city by the original applicant, (ii) shall be liable to the city for all fees, costs and expenses related
247 to the lot, tract or parcel of real property which arise subsequent to the date the new owner acquires
248 title to such real property, and (iii) may be required by the city to pay a separate review deposit in
249 the same manner as a new application, in which case a separate project account will be opened in
250 the name of the new owner or the new owner's authorized agent. If a separate review deposit is
251 required, no work shall be undertaken by the city or its consultants with respect to the lot, tract or
252 parcel of real property under control of the new owner until a separate review deposit is paid to
253 the city. Until such time as the city receives such written notice of a change in ownership, the
254 original applicant shall be jointly and severally liable to the city for all fees, costs and expenses
255 associated with the application or project; provided, however, that upon receipt by the city of a
256 notification of change of ownership, the original applicant shall no longer be liable to the city for

257 fees, costs and expenses incurred by the city which arise after receipt of the notification of change
258 of ownership, and the new owner shall be solely liable to the city for all such fees, costs and
259 expenses associated with the application or project activities subsequent to the date of receipt by
260 the city of such notification. Additionally, the applicant shall be entitled to a refund of any review
261 deposit balance as of the date said change of ownership notice is received by the city.

262
263 **Section 95-11. Agreement to be bound by the provisions of this Chapter.**

264
265 Submission of an application shall constitute the consent and agreement for the applicant and the
266 owner, if the application is being executed by the owner's authorized agent, to be bound by the
267 provisions of this chapter.

268
269 **SECTION 2.** Section 94-37 of the City of Dunnellon Land Development Regulations is hereby
270 amended as follows:

271
272 Sec. 94-37. - Powers and duties.

273 The function, powers, and duties of the city's planning commission shall be as follows:

274 ***

275 (16) Applications; notice of commission procedure with regard to land planning/zoning cases,
276 site plan reviews, variances, supplemental standards, and review/appeal of administrative orders,
277 variances, special exceptions and appeals of administrative decisions. Any applicant applying to
278 the commission must do so on forms provided by the city and thereon provide sufficient
279 information to show the details, extent and scope of the proposed request. Such application shall
280 be accompanied by a lot plan, diagram and survey if requested by the city to show the nature of
281 the proposed request, and any other information required by these land development regulations.
282 All applicants shall be provided a public hearing before the commission after public notice
283 thereof. Public notice shall mean publication of notice of the time, place and purpose of such
284 hearing and that interested persons will have an opportunity to be heard. Notice shall be
285 published once in a newspaper of general circulation in the city and on the city website,
286 publication to be not less than 14 days prior to the date of the hearing except as provided for by
287 Florida Statute.

288 Applicants shall be given notice of hearing by letter addressed to such applicant at the
289 address given in such application, and mailed at least 15 days prior to the date of hearing.

290 In connection with hearings on quasi-judicial applications, owners of property within 300
291 feet of the property which is the subject of the application shall be given notice of such
292 hearing by U.S. mail. Such notice shall be mailed at least 15 days prior to date of the
293 hearing. For the purpose of this notification an owner of property shall be deemed to be
294 the person who, with his address, is so shown on the county tax rolls. These requirements
295 are in addition to statutory notice requirements.

296 ~~The applicant shall pay all fees assessed by the commission including costs and attorney~~
297 ~~fees.~~ After the commission forwards its recommendation to the city council, the council
298 will hold appropriate public hearings with code required advertisements.

299 **SECTION 3. Severability.** If any portion of this Ordinance is declared invalid or unenforceable,
300 then to the extent it is possible to do so without destroying the overall intent and effect of this
301 Ordinance, the portion deemed invalid or unenforceable shall be severed here from, and the
302 remainder of this Ordinance shall continue in full force and effect as if it were enacted without
303 including the portion found to be invalid or unenforceable.

304
305 **SECTION 4. Conflicts.** All ordinances or parts of ordinances in conflict herewith are hereby
306 repealed.

307
308 **SECTION 5. Effective Date.** This Ordinance shall become effective immediately upon
309 adoption.

310
311 **Upon motion duly made and carried,** the foregoing Ordinance was approved upon the first
312 reading on the 15th day of July, 2019.

313
314 **Upon motion duly made and carried,** the foregoing Ordinance was approved and passed upon
315 the second and final reading and public hearing on the 12th day of August, 2019.

316
317 Ordinance Posted on the City's website on July 11, 2019. Public hearing advertised on the City's
318 website on July 11, 2019 and advertised in the Riverland News on August 1, 2019.

319
320 ATTEST:

CITY OF DUNNELLON

321 _____
322 Amanda L. Roberts, CMC

C. Dale Burns, Jr., Mayor

323
324 Approved as to Form:

325 _____
326 Andrew J. Hand, City Attorney

327
328
329 **CERTIFICATE OF POSTING**

330 **I HEREBY CERTIFY** that copies of the foregoing Ordinance were posted at City Hall, the
331 Chamber of Commerce, and the Dunnellon Library, in the City of Dunnellon, Florida, this 11th
332 day of July, 2019 and on the City's Official Website the 11th day of July, 2019.

333
334
335 _____
336 Amanda L. Roberts, CMC, City Clerk