# City of Palm Coast, Florida
# Agenda Item

**Agenda Date:** August 11, 2026 **Agenda Item:** E.2

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|---|---|---|---|
| **Department**<br>**Division** | COMMUNITY DEVELOPMENT<br>PLANNING | **Amount**<br>**Org/Account #** | |
| **Subject:** | PRESENTATION - PROPOSED AMENDMENTS TO THE LAND DEVELOPMENT CODE | | |
| **Presenter:** | **Jose Papa, AICP, Senior Planner, Phong Nguyen, PTP, Planning Manager** | | |

**Attachments:**

1. Presentation
2. Ordinance
3. Exhibit A to Ordinance - Proposed Amendments to LDC
4. Summary of Amendments and Comments since June 9, 2026, City Council Workshop

**Background:**

In May 2025, the City completed and adopted the update of the Comprehensive Plan. In order to implement the goals, objectives, and policies of the 2050 Comprehensive Plan, the Land Development Code (LDC) needed to be updated.

Staff as part of the LDC update conducted a series of public workshops with the Beautification and Environmental Advisory Committee (BEAC), the Planning and Land Development Regulation Board (PLDRB), and City Council. The purpose of these meetings was to present a draft of the proposed LDC amendments and to receive comments on additional changes that may be considered as an amendment to the LDC. Additionally, each chapter of the LDC was posted on Social Pinpoint platform as a means to solicit comments from the general public and other stakeholders.

The proposed amendments provided in the summary chart attached to this agenda package are based on comments provided by City Council at the June 9, 2026, workshop. At this point in the process, staff has presented all proposed amendments to the Land Development Code.

**This is a legislative item.**

**Recommended Action:**
**STAFF IS SEEKING ANY FINAL COMMENTS REGARDING THE PROPOSED AMENDMENTS**

# Land Development Code Amendments

City Council Workshop

August 11, 2026

# Land Development Code Amendments

Agenda Package includes a summary of amendments since the City Council June 9 Workshop

The following items will be brought forward after the adoption of the LDC updates:

- An ordinance to address performance standards for Data Centers
- An ordinance to establish penalties and fines for unpermitted tree removal

# Land Development Code Amendments

## Next Steps

- Planning and Land Development Regulation Board Public Hearing – August 19
- City Council 1st reading – September 1
- City Council 2nd reading – September 15

**ORDINANCE 2026-__**
**AMENDMENTS TO THE UNIFIED LAND DEVELOPMENT CODE (LDC)**

**AN ORDINANCE AMENDING THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE CHAPTERS 2, 3, 4, 5, 7, 9, 10, 11, 13, AND 14; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** the City Council of the City of Palm Coast enacted Ordinance 2025-06, adopting the *City of Palm Coast 2050 Comprehensive Plan* which includes the City of Palm Coast Future Land Use Map (FLUM), which Plan and FLUM have been amended from time-to-time; and

**WHEREAS,** the Florida Statutes 163.3202 states that each municipality shall adopt or amend and enforce land development regulations that are consistent with and implement their adopted comprehensive plan and

**WHEREAS,** the City staff created a set of proposed amendments that were provided for public comment and discussion through workshops with the City of Palm Coast Beautification and Environmental Advisory Board, the Planning and Land Development Regulation Board, the social pinpoint platform to solicit public input from the general public and other stakeholders; and

**WHEREAS,** additionally, the City Council of the City of Palm Coast is acting in accordance with the provisions Article VIII, Section 2(b) of the Constitution and of Section 166.021(1), Florida Statutes, which provides for home rule authority; and

**WHEREAS,** the Planning and Land Development Regulation Board held a duly advertised public hearing on August 19, 2026 and recommends that the City Council approve the proposed amendments to the Land Development Code; and

**WHEREAS,** the City of Palm Coast has complied with all requirements and procedures of

Florida law in processing, noticing and advertising this Ordinance.

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF PALM COAST, FLORIDA:**

**SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS.** The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

**SECTION 2. AMENDMENTS TO THE UNIFIED LAND DEVELOPMENT CODE**

The Proposed Amendments to the Land Development Code are provided in Exhibit "A" which includes Chapters 2, 3, 4, 5, 7, 9, 10, 11, 13, and 14 of the Land Development Code is hereby adopted into the text of this Ordinance.

**SECTION 3. SEVERABILITY.** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

**SECTION 4. CONFLICTS.** All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

**SECTION 5. CODIFICATION**. It is the intention of the City Council of the City of Palm Coast, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Unified Land Development Code of the City of Palm Coast, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to Section," "Article," or other appropriate word.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its passage and adoption.

**APPROVED** on first reading this 1st day of September 2026.

**ADOPTED** on second reading after due public notice and hearing this 15th day of September 2026.

ATTEST:

KALEY COOK, CITY CLERK

CITY OF PALM COAST

MICHAEL NORRIS, MAYOR

APPROVED AS TO FORM AND LEGALITY

MARCUS DUFFY, CITY ATTORNEY

**EXHIBIT "A"**

Amendments to Chapters 2, 3, 4, 5, 7, 9, 10, 11, 13, and 14 of the Unified Land Development Code

## PART I. - REVIEW AUTHORITY AND ENFORCEMENT

### Sec. 2.01. - Purpose and Intent.

The purpose of this Part is to establish the administrative structure for the implementation and enforcement of the Land Development Code.

### Sec. 2.02. - Review Authorities.

The following review authorities are established to administer the provisions of this LDC under the authority prescribed by this LDC and Florida law.

2.02.01. *City Council.* In addition to any authority granted to the City Council by state law or the Code of Ordinances of the City of Palm Coast, the City Council shall have the following powers and duties with regard to this LDC:

A. To provide for the approval or denial of applications promoting orderly development consistent with the City's Comprehensive Plan and this LDC.

B. To provide for the approval or denial of subdivision plans and other development plans consistent with the Comprehensive Plan and this LDC.

C. To conduct public hearings as may be necessary in the discharge of its duties.

D. To amend this LDC, after review and recommendation of the Planning and Land Development Regulation Board.

E. To hear and decide appeals pertaining to decisions of the Planning and Land Development Regulation Board.

F. To set fees as necessary to implement the provisions of this LDC.

G. To assess enforcement penalties for failure to comply with this LDC.

H. To take such other action not delegated to decision-making and administrative bodies designated in this LDC, as the City Council may deem desirable and necessary to implement the provisions of this LDC and the Comprehensive Plan.

2.02.02. *Planning and land development regulation board.* Chapter 2, Article V, Division 5 of the City of Palm Coast Code of Ordinances establishes the Planning and Land Development Regulation Board. In addition to the membership and duties specified in the Code of Ordinances, the Planning and Land Development Regulation Board shall meet the following requirements:

A. *Membership.*

1. The members of the Planning and Land Development Regulation Board shall reside in the City.

2. At least one Planning and Land Development Regulation Board shall be appointed from each City Council district.

3. No Planning and Land Development Regulation Board member shall serve in office for more than two consecutive four-year terms. A member whose term expires may continue to serve until a replacement is appointed.

4. Membership shall be based on experience or interest in the field of planning and zoning and may include the following occupations, when feasible. In no event, however, shall the Planning and Land Development Regulation Board include more than two members from the same field:

a. An architect or a landscape architect;

b. An engineer;

c. A realtor or a developer;

d. An environmentalist; and

e. A lawyer.

B. *Removal from office.*

1. Planning and Land Development Regulation Board members shall serve at the pleasure of the City Council.

2. If a member of the Planning and Land Development Regulation Board is absent for three regularly scheduled meetings without being excused prior to said meeting by the chair or who misses a total of five meetings in any 12 consecutive months, said member shall forfeit his or her office and it shall be deemed vacant.

3. Any vacancy occurring during the unexpired term of office of any member shall be filled by the City Council for the remainder of the term.

C. *Powers and duties.* The Planning and Land Development Regulation Board shall have the following powers and duties:

1. Hear applications for Comprehensive Plan amendments, zoning map amendments, master planned developments, master plans, special exceptions, and variances.

2. The Planning and Land Development Regulation Board is hereby designated as the local planning agency as required by F.S. §~~§ 163.3161 and~~ 163.3174. The Planning and Land Development Regulation Board shall prepare, or cause to be prepared, the elements of the Comprehensive Plan as required in F.S. § 163.3177, and any other appropriate elements, and shall make recommendations regarding the Comprehensive Plan to the City Council. It shall have the general responsibility for the conduct of the Comprehensive Planning Program, monitoring and overseeing the effectiveness and status of the Comprehensive Plan, and recommending to the City Council such changes in the Comprehensive Plan as may, from time-to-time, be required. It shall perform any other duties assigned by the City Council and may prepare and recommend to the City Council any other proposals to implement the Comprehensive Plan.

3. The Planning and Land Development Regulation Board is hereby also designated as the land development regulation board in accordance with the provisions of F.S. §~~§ 163.3161 and~~ 163.3194. The Planning and Land Development Regulation Board shall develop and recommend to the City Council land development regulations that implement the Comprehensive Plan and amendments thereto for consistency with the Comprehensive Plan. Amendments to the Land Development Code that relate purely to technical matters shall be considered on the basis of the technical matters submitted only.

2.02.03. *Land Use Administrator.*

A. The Land Use Administrator shall review and act upon any and all applications for development orders and permits that are issued by any person or body other than the City Council or the Planning and Land Development Regulation Board in which cases the Land Use Administrator shall provide for reviews and recommendations as appropriate.

B. The Land Use Administrator is authorized to make necessary interpretations of this LDC and to interpret the permissible, prohibited, and special exception land uses listed in each zoning district upon a written request for an interpretation being submitted to the Land Use Administrator together with any prescribed fee. The request shall contain sufficient information to enable the Land Use Administrator to make the necessary interpretation.

C. The Land Use Administrator is authorized to interpret the zoning map and to act upon disputed questions of district boundary lines and similar questions upon an application for an interpretation being submitted to the Land Use Administrator together with any prescribed fee. The application shall contain sufficient information to enable the Land Use Administrator to make the necessary interpretation.

*Table 2-1—Development Order Approvals*

| DEVELOPMENT LEVEL | DEVELOPMENT TYPE/INTENSITY | FINAL APPROVAL AUTHORITY |
|---|---|---|
| **MINOR**<br>Tier 1:<br>Nonresidential ~~projects~~ site plans up to 40,000 square feet of building and/or multi-family residential projects not to exceed 40 residential units | Administrative Deviation of Standards | Land Use Administrator [1] |
| | Nonstatutory Subdivisions | |
| | Preliminary and Final Plats (regardless of the number of units are Tier 1) | |
| | Technical Site Plans for Tier 1 developments; Tier 2 developments with an approved Master Site Plan; and Tier 3 developments with an approved Master Site Plan | |
| | Subdivision Master Plans for nonresidential and for residential up to 100 units | |
| | Developments pursuant to the Live Local Act regardless of size or number of units | |
| **MODERATE**<br>Tier 2:<br>Nonresidential ~~projects~~ site plans over 40,000 square feet of building up to 100,000 square feet of building and/or multi-family residential projects over 41 residential units not to exceed 100 units | Special Exceptions | Planning and Land Development Regulation Board |
| | Variances | |
| | Master Site Plans for Tier 2 Developments | |
| | Technical Site Plans for Tier 2 developments without a master plan | |
| | Nonresidential Controlling Master Site Plans for Tier 2 developments | |
| | Subdivision Master Plans for | |

| | | |
|---|---|---|
| | residential greater than 100 units | |
| **MAJOR**<br>Tier 3:<br>Nonresidential ~~projects~~ site plans over 100,000 square feet of building and/or multi-family residential projects over 100 residential units | Vested Rights Determinations | City Council |
| | Zoning Map Amendments/Master Planned Developments | |
| | ~~Final Plats~~ | |
| | Development Agreements | |
| | Master Site Plans for Tier 3 developments | |
| | Technical Site Plans for Tier 3 developments without a master plan | |
| | Nonresidential Controlling Master Site Plans for Tier 3 developments | |
| | Developments of Regional Impact ~~(threshold - 750 residential dwelling units)~~ or amendments to Developments of Regional Impact | |

[1] The Land Use Administrator shall, on a regular basis, submit a report to the Planning and Land Development Regulation Board listing all minor level developments that have been approved during a specified period.

PART II. - DEVELOPMENT ORDERS AND AGREEMENTS—APPLICATIONS AND PROCEDURES

Sec. 2.03. - Purpose and Intent.

The purpose of this Part is to set forth the basic procedures and criteria to implement this LDC with regard to receiving, reviewing, and rendering decisions on applications for development orders, agreements, and amendments to the Official Zoning Map. These procedures shall be applied and interpreted in a manner recognizing both the legislative and quasi-judicial aspects of the local government decision-making process. The Land Use Administrator shall accomplish the administration of this LDC, but may delegate authority as deemed appropriate. The City will not establish procedures and administer policies inconsistent with the Comprehensive Plan, Code of Ordinances, and policies established by City Council.

Sec. 2.04. - Applicability.

No person shall undertake the development or subdivision of land within the corporate limits of the City except pursuant to a valid development order issued in accordance with all legal requirements. All development shall be consistent with the Comprehensive Plan. All development shall meet City requirements prior to the approval and issuance of any development order, unless specifically exempted as a condition of the development order. The requirements contained in this section, in addition to the specific requirements noted for each type of application within this Part, shall apply to all development orders.

2.04.01. *Development order required.* Development orders require different levels of approval depending on the intensity and type of project. Table 2-1 shows the level of approval required for each type of development activity. Before submitting a development order application for review and to determine which level an application falls into, the developer shall provide the Land Use Administrator with sufficient information to make a determination.

2.04.02. *Exceptions.* No development order shall be required when:

A. The application for development involves minor remodeling or new construction of a detached single-family dwelling or duplex residential building and it meets all the applicable LDC requirements and regulations. Such development may directly make application for a building permit.

B. The development or redevelopment activity is included as part of a larger plan of development or a phased development for which a development order has been previously issued pursuant to this LDC.

C. Altering an existing building or structure so long as no increase is made to its nonresidential gross floor area, its use, its height, or the amount of impervious surface on the site.

D. Changing the use of a property/building provided that:

1. The new use is allowed in the applicable zoning district, and

2. The new use does not increase the density or the intensity of the development on the real property.

E. Erecting a sign or replacing protected trees on a previously developed site and independent of any other development activity on the site.

2.04.03. *Building permit required.* It shall be unlawful to change the use of an existing structure, modify an approved site plan, commence the clearing of land, excavations for, or the construction of any building or other structure, including accessory structures, or to store building materials, or erect temporary field offices, or to commence the moving, alteration, or repair of any structure, including accessory structures, until the Land Use Administrator has issued a building permit authorizing such development. Review and approval of building permits shall be in accordance with Article 2, Chapter 15 of the City of Palm Coast Code of Ordinances.

(Ord. No. 2024-17, § 2, 11-12-24)

Sec. 2.05. - Development Orders and Agreements—General Requirements.

2.05.01. *General administrative principles.* The following principles apply to the development application process:

A. Copies of documents, reports, publications, administrative rules, and other similar matters that are referred to in the provisions of this LDC shall be filed and retained in the office of the City Clerk.

B. When state or federal codes are referenced in this LDC, the most recent enactment or amendment of that regulation shall apply.

C. When calculations are made in the course of the implementation of this LDC, numbers shall be rounded to the nearest whole number unless otherwise specifically stated in this LDC.

D. Fees called for in this LDC for the various applications and processes shall be established in a resolution adopted by the City Council; provided, however, that the Land Use Administrator may establish the appropriate fee for actions and activities not specifically set forth in a fee resolution after considering the range of fees set forth in the City Council's resolution and shall present proposed amended fee resolutions to the City Council, as needed, from time-to-time.

E. The Land Use Administrator is charged with promulgating the forms and procedures necessary to administratively implement this LDC.

F. Whenever a reference is made in this LDC to "the City" or "City staff" such reference

shall mean the Land Use Administrator unless the context clearly indicates to the contrary.

G. The City shall adhere to the controlling requirements of state law relative to the processing, hearing and rendering decisions with regard to legislative and quasi-judicial matters. The City shall approve development orders and deny development orders as appropriate and in recognition of the public's right and the rights of property owners to articulated decisions on land use matters.

H. Although a glossary of defined terms and various definitions of terms are set forth in Chapter 14, not all terms may be defined and, to that end, the City may refer to and rely upon definitions set forth in the Florida Statutes ~~and~~, the Florida Administrative Code, the Florida Building Code, or as found in the Merriam-Webster Dictionary in order to assist in the administration of this LDC.

I. The rendering of a decision shall mean the filing of a written development order or a written denial of a development order in the office of the City Clerk.

J. Upon a final decision made by the City Council after all internal appeals being timely filed and determined, applicants may seek timely appeals of actions in a court of competent jurisdiction.

K. A change of use shall require appropriate reviews and permitting if the proposed new use increases the density or intensity of the development on real property. A change of use occurs when an existing use or occupancy of land, or a building, is replaced by another use or occupancy.

2.05.02. *Neighborhood meeting requirements.*

A. *Meetings required.* Developers are required to hold a neighborhood meeting for the following application types:

1. Single-family and multifamily residential developments of 40 units or more, unless waived by the Land Use Administrator. Developments pursuant to the Live Local Act shall not require a neighborhood meeting.
2. Development of regional impact.
3. Master planned development.
4. Zoning map amendments.
5. Other projects as deemed necessary by the Land Use Administrator on a case-by-case basis based upon potential impacts to the City or abutting or proximate property owners.

The meeting shall be held at least 14 days prior to an application being heard in the first step of the review/approval process. The Land Use Administrator may waive the requirement for a neighborhood meeting if the project is part of a multiphase project for which meetings have been held previously. A request to waive the requirement for a neighborhood meeting must be made in writing to the Land Use Administrator and contain the reason(s) for the request.

B. *Notification required.* Neighborhood meetings shall be noticed to property owners owning property located within 500 feet of the boundary lines of the property proposed for development. The notice shall state the date, time, and location of the neighborhood meeting. A location map of the project location shall be included with the notification along with other documentation as requested by City staff. The notice shall be sent/postmarked at least 14 days prior to the neighborhood meeting. A copy of the notice shall be provided to the City.

C. *Meeting criteria.* The neighborhood meeting shall be held in the evening ~~or on a~~

~~weekend~~ in a location of close proximity to the subject property that is capable of accommodating such meeting. The meeting shall not start earlier than 5:30 p.m. and shall not be scheduled on the same night as a PLDRB or City Council Regular meeting. The applicant shall conduct the meeting and provide necessary information and materials to attendees that address the proposed development. The applicant shall ensure that audio-visual equipment is adequate to assist in making sure that attendees may fully participate in the proceedings. The applicant shall provide a sign-in sheet and take notes of public comments. A copy of the sign-in sheet and comments shall be provided to the City prior to the next step in the approval process.

D. *Post-meeting.* The applicant shall provide the following materials within 10 days after the neighborhood meeting: ~~the submitted application:~~

1. A copy of the meeting notification.
2. A list of who was notified of the meeting.
3. A copy of all materials distributed at the meeting.
4. A list of names and addresses of attendees as provided on sign-up sheets from the meeting.
5. A summary of the issues raised by the attendees.
6. A description of how the proposal addresses the issues that were raised at the meeting.

E. *Additional meetings.* The Land Use Administrator may require that additional neighborhood meetings be held if the application is substantially modified from that which was presented at the previous neighborhood meeting.

2.05.03. *Public hearing notice requirements.*

A. All notices for vacating plats, variances, special exceptions, appeals (as applicable), and amendments to the Official Zoning Map or LDC, shall be published as required by state law and, where applicable, City regulations. If there is ever a conflict between the provisions of this LDC and state law relative to notices, the ~~provisions of state law shall prevail and apply~~more stringent regulation shall apply.

B. Prior to the hearings provided for under this chapter, the applicant shall send notices, prepared by City staff, to all applicable property owners as outlined in Table 2-2. The names and addresses of the property owners shall be obtained by the applicant from the Flagler County Property Appraiser's Office. The notice shall be sent via certified mail and shall provide information as to the nature of the requested application and the date, time, and location of the public hearing. No other documents shall be provided within the envelope. The Land Use Administrator shall promulgate rules relating to whether the applicant or the City will be responsible for mailing the notices to the required property owners by certified mail and the costs relating thereto.

C. Abutting property means any property that is immediately contiguous to property that may be subject to a hearing or that is immediately across any road or public right-of-way from the property subject to such hearings.

D. Signs, as required, shall be posted in a conspicuous place on the subject property no later than the timeframe specified in Table 2-2.

E. At least ten calendar days prior to the required hearing, if applicable, the applicant shall submit an affidavit to the City stating that the notification requirements have been met in accordance with this section.

***Table 2-2: Notification Requirements for Public Hearings*** ***~~(State law prevails over any~~***

~~provision in this Table)~~

| | Planning and Land Development Regulation Board (PLDRB) | City Council Ordinance 1st reading | City Council Ordinance 2nd reading | Judicial or DCA |
|---|---|---|---|---|
| **Appeal Administrative Decision** | N/A | N/A | N/A | N/A |
| **Appeal PLDRB Decision** | N/A | Applicant mails letters, if deemed applicable by the Land Use Administrator, at least 14 calendar days prior to hearing. | N/A | N/A |
| **Vacating Plat** | N/A | In accordance with Florida Statutes | N/A | N/A |
| **Variance** | Applicant mails certified letters to abutting property owners at least 14 calendar days prior to hearing. | N/A | N/A | N/A |
| **Special Exception** | Applicant mails certified letters to abutting property owners at least 14 calendar days prior to hearing. | N/A | N/A | N/A |
| **LDC Amendment** | Display ad published at least 14 calendar days prior to hearing. | Display ad published at least ~~7~~ 14 calendar days prior to hearing. | Display ad published at least ~~5~~ 14 calendar days prior to hearing/adoption | N/A |
| **Zoning Map Amendment** (owner initiated) | Applicant posts signs at least 14 calendar days prior to hearing.<br><br>Display ad published at least 14 calendar days prior to hearing. | Applicant posts signs at least 14 calendar days prior to hearing.<br><br>Display ad published at least 14 calendar | Applicant posts signs at least 14 calendar days prior to hearing.<br><br>Display ad published at least ~~10~~ 14 calendar | Petition shall be presented to the Circuit Court within 30 days of final action by City Council. |

| | | | | |
|---|---|---|---|---|
| | | days prior to hearing. | days prior to hearing/adoption. | |
| **Zoning Map Amendment** (City initiated, less than 10 acres) | Signs posted at least 14 calendar days prior to hearing.<br><br>Display ad published at least 14 calendar days prior to hearing. | Signs posted at least 30 calendar days prior to hearing.<br><br>Notification letters mailed at least 30 calendar days prior to hearing to each real property owner of parcels to be rezoned.<br><br>Display ad published at least 14 calendar days prior to hearing. | Signs posted at least 14 calendar days prior to hearing.<br><br>Display ad published at least 14 calendar days prior to hearing.~~N/A~~ | Petition shall be presented to the Circuit Court within 30 days of final action by City Council. |
| **Zoning Map Amendment** (City initiated, 10 or more contiguous acres) | Signs posted at least 14 calendar days prior to hearing.<br><br>Display ad published at least 14 calendar days prior to hearing. | Signs posted at least ~~7~~ 14 calendar days prior to hearing.<br><br>Display ad published at least ~~7~~ 14 calendar days prior to hearing. | Signs posted at least 14 calendar days prior to hearing.<br><br>Display ad published at least ~~5~~ 14 calendar days prior to hearing/adoption. | Petition shall be presented to the Circuit Court within 30 days of final action by City Council. |
| **Development Agreement and Amendments**[1] | N/A | In accordance with Florida Statutes | In accordance with Florida Statutes | In accordance with Florida Statutes |
| **Comprehensive Plan Amendments** | Applicant posts signs at least 14 calendar days prior to hearing.<br><br>Display ad published at least 14 calendar days prior to hearing.~~In accordance with Florida Statutes~~ | Applicant posts signs at least 14 calendar days prior to hearing.<br><br>Display ad published at least 14 calendar days prior to hearing.~~In accordance with Florida Statutes~~ | Applicant posts signs at least 14 calendar days prior to hearing.<br><br>Display ad published at least 14 calendar days prior to hearing.~~In accordance with Florida Statutes~~ | In accordance with Florida Statutes |
| **DRI Amendments** | Display ad published at least | Display published ad at | Display ad published at least | In accordance with Florida |

| | | | | |
|---|---|---|---|---|
| | 14 calendar days prior to hearing. ~~In accordance with Florida Statutes~~ | least 14 calendar days prior to hearing. ~~In accordance with Florida Statutes~~ | 14 calendar days prior to hearing. ~~In accordance with Florida Statutes~~ | Statutes |

[1] This is not applicable to development agreements related to the zoning of property.

2.05.04. *Review procedures.* This section establishes the review process for development orders. More specific requirements for certain development orders are included in those particular sections within this Part.

A. *Owner; owner representative.* If an application relates to a specific real property, it shall be heard only if it is presented by the person(s) owning 51 percent or more of that land, or an authorized representative of the owner(s), or upon an administrative application by the City Council.

B. *Right of entry for survey, examination, and inspection.* An application submittal shall grant any person acting under the direction of the Land Use Administrator in the performance of functions and duties pursuant to this LDC to enter upon such land and make inspections, examinations, and surveys as necessary in its administration and enforcement.

C. *Preapplication meeting.* Prior to filing an application for development, an applicant desiring to develop or plat property within the City may schedule a preapplication meeting with the Land Use Administrator. The applicant shall submit a preapplication package that meets City requirements. Following the preapplication meeting, the applicant shall hold neighborhood meetings as required in this chapter prior to submitting an application for the next step in the approval process.

D. *Completeness review.* An application shall be submitted in accordance with City requirements. Minimum requirements for an application for a development order are posted on the City website. Compliance review will not commence until such time that the application is deemed complete by the Land Use Administrator (LUA).

1. Within 5 business days after receiving an application for approval of a development order, the Land Use Administrator (LUA) shall confirm receipt of the application using the contact information provided by the applicant.

2. The ~~Land Use Administrator~~ LUA will make a determination of completeness within ~~ten~~ 30 ~~business~~ days from receipt of the application. If the application is deemed incomplete, it shall be returned to the applicant The applicant will be issued a letter indicating that all required information is submitted or specifying with particularity any areas that are deficient. and the same process followed until it is determined to be complete. When the Land Use Administrator has determined that an application is complete, correspondence will be sent to the applicant and the date of that correspondence will serve as the first day of the compliance review period.

3. For applications that do not require final action through quasi-judicial hearing or public hearing the LUA must approve, approve with conditions, or deny the request within 120 days after the application has been deemed complete. For applications that require final action through quasi-judicial hearing or public hearing the LUA must approve, approve with conditions, or deny the request within 180 days after the application has been deemed complete. Both parties may agree to a reasonable request for an extension of time, particularly in the event of a force majeure or other extraordinary circumstance.

4. The timeframes contained in this subsection restart if an applicant makes a

substantive change to the application. As used in this subsection, the term "substantive change" means an applicant-initiated change of 15 percent or more in the proposed density, intensity, or square footage of a parcel.

~~1.~~5. If the stated timeframes are not met by the LUA, the applicant may be issued a refund of the application fee, or portion thereof, as outlined in Florida State Statute 166.033 (4).

E. *Revisions to development order applications.* If an application is modified after submittal, the following requirements shall apply:

1. *Major modification.* A major modification of plans initiated by the applicant during the compliance review process that is not in response to City comments may be determined to constitute a new application submittal by the Land Use Administrator.

2. *Application/document changes.* Ownership and/or mortgage holder changes shall require a new signed application cover sheet with updated signatures and a new title opinion as well as additional information that may be required. Changes to the application may require additional review by the Land Use Administrator.

F. *Applications withdrawn, abated, and abandoned.*

1. *Withdraw.* Any application may be withdrawn, prior to any action required, at the discretion of the applicant upon written notice to the City. The withdrawal of an application shall not result in a refund of the application fee.

2. *Abated applications.* An application shall be abated when no activity occurs for six consecutive months. The Land Use Administrator shall issue a notice of abated application to the applicant. Any submittal after the issuance of a notice of abated application shall require the payment of an abated application fee and must comply with any amendments to this LDC or other applicable state regulations after the last review of the application.

3. *Abandoned applications.* An application shall be abandoned when no activity occurs for 12 consecutive months. The Land Use Administrator shall issue a notice of abandoned application to the applicant. Any submittal after the issuance of a notice of abandoned application shall constitute a new application.

G. *Applications for minor development—Land use administrator approval.*

~~1.~~ Following a completeness determination as described in Sec. 2.05.04.D. ~~for a minor development,~~ the Land Use Administrator shall approve, approve with conditions, or deny the application for a development order within 120 days. ~~review the application in order to determine compliance with City requirements and, if applicable, state requirements.~~

~~2. If the application is not in compliance, a letter shall be sent to the applicant outlining all items that need to be addressed in order for the development to achieve compliance with this LDC.~~

~~3.~~1. ~~Upon verification of compliance with all applicable requirements, the Land Use Administrator shall issue a development order approving or denying the application.~~

H. *Application for moderate and major development—Planning and land development regulation board or city council approval.* The review process for a moderate or major development shall include:

1. Following a completeness determination as described in Sec. 2.05.04.D., an application requiring final action through a quasi-judicial hearing or public hearing

must be approved, approved with conditions, or denied within 180 days.~~for a moderate or major development,the Land Use Administrator shall review the submittal in order to determine compliance with City requirements and, if applicable, state requirements. Copies of the application shall be forwarded to all applicable City staff for review and comment. At the discretion of the Land Use Administrator, or at the request of the applicant, a meeting may be scheduled with City staff to discuss issues that may be substantive in nature. If City staff finds that additional information is needed for the proper review of the application, the Land Use Administrator shall notify the applicant in writing, specifying the information needed.~~

~~2.~~

~~3.~~2. ~~If the application is not in compliance, a letter shall be sent to the applicant outlining all items that need to be addressed in order for the development to achieve compliance with this LD~~After verification that the application for a moderate or major development has complied with all applicable requirements of this LDC, the application shall be placed upon the next practicable agenda of the Planning and Land Development Regulation Board in accordance with published schedules and deadlines. After 60 days of application submittal the applicant may request the application be on the next appropriate agenda.

~~4.~~3. The Land Use Administrator shall forward the application, along with its recommendations, to the Planning and Land Development Regulation Board for consideration. Based on the application, the requirements of this chapter, and the recommendations of City staff, the Planning and Land Development Regulation Board may approve, approve with conditions, or deny a development order, or prepare recommendations for the consideration of the City Council if it involves a major development, as defined in Table 2-1.

4. If applicable, following review by the Planning and Land Development Regulation Board, the application shall be placed upon the next practicable agenda of the City Council. Based on the application, the requirements of this chapter and the recommendations of the Planning and Land Development Regulation Board, the City Council shall approve, approve with conditions, or deny the application.

~~1.~~

I. *Conditions and safeguards.* In granting any development order, the approving authority may prescribe appropriate conditions and safeguards in conformity with this LDC. The approving authority shall render a decision to either:

1. Approve the request as submitted; or
2. Approve the request with conditions; or
3. Deny the request.

Violation of conditions and safeguards made a part of the approval shall be a violation of this LDC.

J. *Development order denial.* In the event an application for a development order is denied, the City shall issue a denial development order citing the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the request for a development order or permit. The Land Use Administrator may provide comments and recommendations relating to applications prior to taking action to deny a development order.

K. *Due process.* The timeframe for City review, process, and public hearings for all accepted application types ~~shall be determined by the Land Use Administrator. The Land Use Administrator shall provide information depicting all application target timelines for City review and processing which demonstrates its adherence to these~~

~~timeframes. Although these timeframes are targets and not requirements, all applications shall be duly processed. In no case shall the Land Use Administrator unduly or unreasonably deny comments, reports, decisions, or scheduling of public hearings for applications.~~shall follow Florida State Statute 166.033 as provided in LDC Section 2.05.04.D. After 60 days of application submittal the applicant may request the application to be on the next appropriate agenda, if applicable.

L. *Independent review of applications.* The City may engage necessary technical consultants for the review of an application or a specific technical aspect of an application. The costs of such review shall be paid by the applicant.

2.05.05. *Review findings.* When reviewing a development order application, the approval authority shall determine whether sufficient factual data was presented in order to render a decision. The decision to issue a development order shall be based upon the following including, but not limited to:

A. The proposed development must not be in conflict with or contrary to the public interest;

B. The proposed development must be consistent with the Comprehensive Plan and the provisions of this LDC;

C. The proposed development must not impose a significant financial liability or hardship for the City;

D. The proposed development must not create an unreasonable hazard, or nuisance, or constitute a threat to the general health, welfare, or safety of the City's inhabitants; and

E. The proposed development must comply with all other applicable local, state, and federal laws, statutes, ordinances, regulations, or codes.

2.05.06. *Effect of development orders.* The issuance of a development order does not authorize the disturbance of any part of the subject property involved. A development order only authorizes the filing of an application for another development order or a building permit.

A. *Other permits required.* In addition to obtaining a development order from the City, the developer must also obtain all other applicable permits or exemptions, as may be required by law, pursuant to Florida Statutes Chapter 166.033. ~~In the event approval from the City is prerequisite to obtaining other required permits, the City shall issue a letter of intent which states that the proposed development is in compliance with this LDC, and that such approval is conditioned upon the developer obtaining all other required permits. The developer must provide proof to the City that all permits or exemptions have been granted prior to receiving a site development permit and, if applicable, a final plat.~~

~~A.~~ B. *Valid period.* Development orders shall remain valid for a period of 12 months from the date of issuance. In the event the applicant provides documentation that federal and/or state permits are in the process of being obtained, the expiration date of the development order may be extended in accordance with Subsection 2.05.06.E. However, a final plat development order shall remain valid until the subdivision or any part thereof is abandoned in accordance with City and state law.

~~B.~~C. *Commencement of construction pursuant to a valid building permit.* If construction on a site has commenced during the valid period of a final site plan development order and pursuant to a valid building permit, construction may continue after the development order expires as long as the building permit remains valid.

~~C.~~D. *Commencement of construction during valid period of a preliminary plat.* If construction of the required improvements in a subdivision has commenced during the valid period of a preliminary plat development order, the improvements may be completed in accordance with the approved development order beyond its valid period provided the final plat development order has been issued and the subdivision has a valid certificate of concurrency. Construction of the required improvements in a subdivision shall be completed or shall be guaranteed for completion pursuant to City requirements.

~~D.~~E. *Extension of a development order.* Within three months before the expiration of any development order, the developer may request an extension not to exceed ~~12~~ 24 months provided the development has a valid certificate of concurrency. All requests shall be submitted to the Land Use Administrator in writing and shall state the reason(s) for the extension. ~~A maximum of three extensions may be granted provided the development has a valid certificate of concurrency~~.

~~E.~~F. *Recording.* All development orders, except denial development orders, and any extension, or minor modification thereto, shall be filed with the City Clerk and recorded at the expense of the applicant.

~~2.05.07.~~ 2.05.07 *Modifications to an approved development order.*

A. The Land Use Administrator may approve minor technical modifications to an approved development order. In determining whether a proposed modification is minor, all of the following shall apply:

~~1. The proposed modification shall not increase the floor area ratio or impervious surface ratio by more than 15 percent, provided it meets the requirements of this LDC~~.

~~2.~~1. The proposed modification shall not adversely affect traffic circulation on or off-site.

~~3.~~2. The proposed modification shall not increase the density, intensity, or height of the approved development.

~~4.~~3. The proposed modification shall comply with all codes, rules, and regulations of the City and any other federal or state agency, and shall not require a variance.

B. Requests for modifications that do not meet the requirements in this subsection shall be reviewed by the applicable approval authority.

(Ord. No. 2024-12, § 2, 5-7-24; Ord. No. 2024-17, § 3, 11-12-24)

Sec. 2.06. - Official Zoning Map Amendments.

2.06.01. *Purpose.* This section is established to provide for zoning map amendments, as may be necessary or desirable from time-to-time, through a review by the Planning and Land Development Regulation Board and the City Council.

2.06.02. *Applicability.* An application to amend the Official Zoning Map (rezoning) may be filed by the Land Use Administrator, the City Council, the Planning and Land Development Regulation Board, the property owner(s), or agent of the property owner(s) representing 51 percent or more of the property involved.

2.06.03. *Review findings.* The Planning and Land Development Regulation Board and City Council shall consider the following criteria, in addition to the findings listed in Subsection 2.05.05, when reviewing a rezoning application:

A. Whether it is consistent with all adopted elements of the Comprehensive Plan and whether it furthers the goals and objectives of the Comprehensive Plan.

B. Its impact upon the environment or natural resources.

C. Its impact on the economy of any affected area.

D. Its impact upon necessary governmental services such as schools, sewage disposal, potable water, drainage, fire and police protection, solid waste, or transportation systems.

E. Any changes in circumstances or conditions affecting the area.

F. Compatibility with proximate uses and development patterns, including impacts to the health, safety, and welfare of surrounding residents.

G. Whether it accomplishes a legitimate public purpose.

2.06.04. *Frequency of application.* A property owner shall not initiate action for the same rezoning affecting the same parcel of land more often than once every ~~12~~ 24 months following denial or approval.

2.06.05. *Recording amendments to the official zoning map.* The Land Use Administrator shall update the Official Zoning Map as soon as possible after amendments are adopted. Amendments to the Official Zoning Map shall identify the official action by which such amendment was made, the date of such action, and the area involved.

Sec. 2.07. - Special Exception.

2.07.01. *Purpose.* The purpose of this section is to establish procedures for the review of uses that would not normally be appropriate within a zoning district, but if subject to appropriate limitations, conditions, and safeguards, would promote the public health, safety, welfare, convenience, and comfort.

2.07.02. *Applicability.* The special exception process shall be ~~can only be applied~~limited to those uses noted as special exception uses in Chapter 3 ~~and in~~or Chapter 4. Uses determined by the Land Use Administrator under Subsection 3.01.07 to require a special exception shall utilize the special exception process. Uses requiring a super majority vote of the City Council pursuant to Subsection 3.01.06 shall utilize the special exception process, with the Planning and Land Development Regulation Board providing a recommendation based on this section to the City Council for final approval by resolution.

2.07.03. *Review findings.* No application for a special exception use shall be approved unless the Planning and Land Development Regulation Board finds that the request meets the findings listed in Subsection 2.05.05 and the following:

A. Is consistent with the specific requirements for that particular use as set forth in this LDC;

~~B. Meets the concurrency requirements of this LDC; and~~

~~C.~~B. Is compatible with the surrounding neighborhoods and promotes the value of surrounding land, structures, or buildings. Compatibility shall be reviewed in light of the following components:

1. Architectural design;
2. Fencing and screening, landscaping;
3. Noise reduction, sign, and light control;
4. Storm drainage, sanitation collection;
5. Police and fire protection;
6. On and off-site traffic control;
7. Off-street parking and loading; and
8. Other matters relevant to assuring that the proposed development site fosters desirable conditions and compatibility with the existing environment.

2.07.04. *Effect of a special exception.*

A. *Effective date.* In accordance with Subsection 2.05.01.I, the rendering of a decision

shall mean the filing of a written development order or a written denial of a development order in the office of the City Clerk.

B. *Special exceptions run with the land.* Special exceptions are not personal in nature and shall run with the land. However, a special exception shall be approved only on the basis of the development plan submitted with the application, and shall be valid only for the location and area shown on the approved development plan which shall include a floor plan, if applicable.

C. *Activating a special exception.* Approval of the special exception shall give the applicant authority to submit an application for development permits and/or other appropriate approval. Where the special exception approval does not require development permits, the applicant shall provide written evidence to the City that the activity granted has been initiated within the time prescribed by the City, or that right or privilege shall expire.

D. *Expiration or Abandonment of Special Exception Uses.* If a special exception does not begin to serve the purpose for which it was granted within 12 months from the date of rendition it shall expire. Provided, however, that the Planning and Land Development Regulation Board may establish a shorter or longer period of time for a special exception to commence. In addition, the Land Use Administrator may extend the special exception for up to an additional 12-month period of time if the applicant can demonstrate good faith reliance. Good faith reliance may include, but is not limited to, the securing of any required permits from other governmental agencies/jurisdictions or the expenditure of substantial funds in reliance on the approved special exception.

E. *Amendments.* Minor amendments not altering the intent and purpose of the approved special exception may be approved by the Land Use Administrator after such departmental comment as he or she deems appropriate. Amendments to an approved special exception, which the director deems to be major, shall require the submittal of an application and compliance with the review procedures as set forth in this section and as otherwise provided in this chapter.

Sec. 2.08. - Subdivision of Land.

2.08.01. *Purpose.* The purpose of this section is to determine when platting is required and to establish a review process consistent with F.S. ch. 177. It is not the intent of this LDC to prohibit the metes and bounds conveyance of real property, but it is the intent of this LDC to ensure compliance with the provisions of State Statutes.

2.08.02. *Applicability.*

A. *Platting required.* It shall be a violation of this LDC for anyone who is the owner or agent of the owner of any land to transfer, sell, or offer to transfer or sell such land by reference to, exhibition of, or other use of a plat of a subdivision of such land without having a plat recorded in accordance with the requirements of this section and state requirements. Subdivisions are classified as:

1. *Statutory.* The division of a parcel of land, whether improved or unimproved, into three or more lots, parcels, tracts, tiers, blocks, sites, units, or any other division of land, and includes establishment of new streets and alleys, additions, and ~~resubdivisions~~replats.
2. *Nonstatutory.* The following activities qualify as nonstatutory subdivisions:

   a. The combination or reconfiguration of previously platted lots or portions of such lots where the total number of lots is not increased and the resultant lots comply with City requirements.

   b. The public acquisition by purchase, acceptance of deed ~~of~~ or dedication, or

exercise of the right of eminent domain of strips of land for the widening or opening of streets, or acquisition of property for public purposes or public utilities.

c. The division of land into no more than three lots, parcels, tracts, tiers, blocks, units, or any other division of land, said resulting lots to be 20 acres or more in size, provided that:

(1) Said division of land does not create a new street.

(2) Each resulting lot, tract, or parcel shall have access to a public street and no public improvement may be dedicated including, but not limited to, any dedication of rights-of-way, easement, or physical improvement of any kind intended for public use.

(3) Each lot, tract, or parcel shall meet or exceed the minimum requirements of the zoning district in which it is located adjacent to the public street.

(4) The owner of the subject property shall not be allowed to further subdivide under this section.

d. The division of a platted lot, parcel, or tract in single ownership into not more than ~~two~~ three lots, where no street right-of-way dedication is involved and where the lots are equal to or exceed the standards of the LDC.

e. The original parcel to be considered must have been lawfully created.

B. *Single sites not requiring platting.* No platting shall be required for development within an individual lot, parcel, or tract, provided that such lot, parcel, or tract meets all of the following requirements:

1. Has a property identification number(s);

2. Was lawfully established by the governing authority at the time it was created; and

3. Complies with the minimum lot area requirements of this LDC, or is a legally existing nonconforming lot.

2.08.03. *Nonstatutory land subdivision review procedures.* The application shall be processed administratively in accordance with review procedures and requirements for development orders established in Section 2.05.

2.08.04. *Statutory land subdivision review procedures.* The subdivision of land that does not qualify as nonstatutory subdivision shall meet the requirements of this section after a Subdivision Master Plan approval has been granted as outlined in Section 2.10.

A. *Preliminary plat.*

1. *Review procedures.*

a. At an applicant's risk, a~~A~~n application for preliminary plat approval may be submitted ~~in conjunction with an application for~~after the ~~a~~ subdivision master plan ~~development order.~~is in substantial compliance.

b. The application shall be processed in accordance with Section 2.05. Once the application is deemed compliant, a development order shall be issued by the approving authority.

B. *Final plat.*

1. *Review procedures.*

a. Following the issuance of a preliminary plat development order, the applicant may submit a complete application for a final plat approval on a form provided by the City.

b. The application shall undergo a completeness and compliance review as outlined in Section 2.05 and F.S. ch. 177.

~~b.~~c. The Final Plat application is reviewed administratively and approved by the Land Use Administrator (LUA).

2.08.05. *Effect of plat approval.*

A. *Effect of preliminary plat approval.* Upon issuance of the preliminary plat development order, the developer may elect to commence construction of the subdivision and apply for a final plat development order. If the developer elects to commence construction prior to or concurrently with final plat review, the developer shall attend a preconstruction meeting as outlined in Chapter 9, Part I, and provide the following documentation and materials:

1. All required permits from federal, state, county, and regional agencies.
2. Commitment letters from the providers for essential services (i.e. electric, telephone, cable, etc.) that adequate service will be available at the time of impact.
3. Performance guarantee (in the amount established by the City) for the installation of public improvements that have not been constructed. Such estimate shall include, but not be limited to, landfill costs. An itemization shall be provided showing improvements that have been installed and all outstanding required improvements.
4. A statement within the preliminary plat development order noting the developer's intent or a letter authorizing the commencement of construction pursuant to the approved construction plans.

B. *Effect of final plat approval.*

1. The execution of the plat by the ~~Mayor~~ Land Use Administrator shall be deemed to be the execution of a development order.
2. All recording fees, documents, and Mylar (original plat) shall be submitted to the Land Use Administrator. The Land Use Administrator shall then transmit the required fees and documents to the Clerk of the Circuit Court for recordation in accordance with F.S. ch. 177. Executed plats must also be filed with the City Clerk.

2.08.06. *Vacating plats.* The owners of any land subdivided into lots may petition the City Council under the provisions of F.S. ch. 177.101, to remove (vacate and abandon) the existing plat, or portion of a plat, from the official records of the City of Palm Coast. The application shall undergo a completeness and compliance review as outlined in this chapter. Once the application is deemed compliant as determined by the Land Use Administrator, it shall be scheduled before the City Council for consideration. The execution of a resolution by the Mayor shall be deemed to be the execution of a development order.

(Ord. No. 2009-26, §§ 2, 3, 12-15-09)

Sec. 2.09. - Master Planned Developments.

2.09.01. *Purpose.* The purpose of this section is to establish review requirements for approval of master planned developments, which typically include both a zoning map amendment and a development agreement. This section also addresses the procedures for approving major amendments to approved master planned developments.

2.09.02. *Applicability.* The requirements of this section apply to any proposed rezoning to the Master Planned Development District. Rezoning to the Master Planned Development District shall be a voluntary procedure to be pursued at the option of the applicant, pursuant to Section 2.10. The City may, at the request of the applicant, initiate such rezoning on privately owned property. The approval of the master planned development rezoning rests with the City Council pursuant to the requirements of Section 2.10.

2.09.03. *Review procedures.*

A. *Unified control.* No application for a master planned development shall be considered until the applicant furnishes all necessary documents and information, as may be required, to provide the City with sufficient evidence that the applicant is in complete, unified, and otherwise unencumbered control of the entire area of the proposed master planned development, whether the applicant be an individual, partnership, corporation, other entity, group, or agency. The applicant shall provide to the City all necessary documents and information that may be required to assure the City that the development project may be lawfully completed according to the plans sought to be approved.

B. *Master planned development site plan.* Review and approval of a master planned development site plan shall be the same as for a moderate or major development site plan, whichever is applicable, pursuant to Section 2.05.

C. *Master planned development agreement.* Review and approval of the Master Planned Development Agreement shall be the same as for a Development Agreement pursuant to Section 2.14.

D. *Bonds.* The City Council ~~may~~ shall include in the Master Planned Development Agreement requirements for bonds (or appropriate alternatives) for improvements conditioned upon the satisfactory and timely completion of facilities in the development plan, for the benefit of purchasers from the applicant, when the development time limits and phasing schedule do not preclude the sale of individual units prior to the completion of such facilities.

2.09.04. *Review findings.* The Planning and Land Development Regulation Board and City Council shall consider the following criteria, in addition to the findings listed in Subsection 2.05.05, and the development standards listed in Subsection 3.03.04 when reviewing a master planned development application:

A. Consistency with all adopted elements of the Comprehensive Plan and whether it furthers the goals and objectives of the Comprehensive Plan.

B. Consistency with the general intent of the LDC.

C. Degree of departure of the proposed development from surrounding areas in terms of character and density/intensity.

D. Compatibility within the development and relationship with surrounding neighborhoods.

E. Adequate provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control, and soil conservation as shown in the development plan.

F. The feasibility and compatibility of development phases to stand as independent developments.

G. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed development.

H. The benefits within the proposed development and to the general public to justify the requested departure from standard development requirements inherent in a Master

Planned Development District classification.

I. The conformity and compatibility of the development with any adopted development plan of the City of Palm Coast.

J. Impact upon the environment or natural resources.

K. Impact on the economy of any affected area.

2.09.05. *Effect of master planned development approval.* Approval of a Master Planned Development Plan and Master Plan Development Agreement gives the applicant the authority to proceed with a site development plan and plat applications for review.

A. *Duration and extension of development agreement.* For the duration and extension requirements of a development agreement, refer to Section 2.14.

B. *Amendment to a master planned development agreement.*

1. A request for an amendment to an approved master planned development master plan and/or agreement shall be supported by a written statement demonstrating the reasons the revisions are necessary or desirable. The Land Use Administrator may require additional documentation as part of the amendment application.

2. Amendments to ~~the~~ an approved Master Planned Development site plan or agreement for the developed portions of the property may only be initiated by:

a. The property owner, for an amendment to the master planned development applicable to only a single lot or building site; or

b. Petition by the owners of more than 50 percent of the property in the Master Planned Development District for an amendment to a master planned development that involves multiple owners; or

c. City Council, where necessary to preserve the health, safety, and welfare of the property owners in the master planned development.

3. Minor (de minimis) changes, no more than five percent increase in density or intensity, which do not affect the intent or character of the development, may be approved by the Land Use Administrator.

2.09.06. *Variances in master planned development districts.* Because the specific development standards of the Master Planned Development District are contained in the approved Master Planned Development Agreement for each planned development, and because the development plan normally takes into account those matters which might otherwise be the subject of variance review, modifications to approved development plans by variance shall be prohibited unless otherwise specifically provided for in the Master Planned Development Agreement.

2.09.07. *Status of previously approved PUD, PRD, VGC-1, VGC-2 and GCC plans.*

A. Any active or completed Planned Unit Development (PUD), Planned Rural Development (PRD), Village Center (VGC-1, VGC-2), or Golf Course Community (GCC) project approved prior to the adoption of this Code shall continue to be governed by the approved development plan and any development agreements, terms and conditions to which the approval may be subject, as long as the project continues to be actively under development. Any time limitations to which the approved PUD, PRD, VGC-1, VGC-2, or GCC plan may be subject shall also continue to apply. Minor (de minimis) changes of no more than five percent increase in density or intensity, which do not affect the intent or character of the development, may be approved by the Land Use Administrator.

B. Whenever any application is made to substantially modify an approved PUD, PRD, VGC-1, VGC-2, or GCC plan, as determined by the Land Use Administrator, or to

undertake a new development on part or all of the property, the application shall be made under the terms and procedures of the Master Planned Development zoning district and shall comply with the provisions of this section. Substantial modifications to an approved development plan or agreement include, but are not limited to change that affects the intent and character of the development, intensity, density, land use pattern, the location, or dimensions of major streets, or similar substantial changes.

Sec. 2.10. - Master Plans.

2.10.01. *Purpose.* The master plan review process is intended to provide a review of the basic development concepts without significant engineering design, prior to proceeding with final plat and technical site plan approval.

2.10.02. *Applicability.*

A. *Master site plan.* A master site plan review is optional for all moderate and major site plans that include residential, nonresidential, and mixed use development occurring on various contiguous sites or outparcels to ensure that development takes place in a coordinated and efficient manner.

B. *Subdivision master plan.* A subdivision master plan is required prior to a preliminary plat application, unless waived by the Land Use Administrator.

C. *Nonresidential controlling master site plan.* A nonresidential controlling master site plan is optional for all site plans meeting the criteria set forth in Section 4.15.

2.10.03. *Review procedures.* A master plan review shall be processed in accordance with Section 2.05 and Table 2-1.

2.10.04. *Review criteria.* Master site plans shall be reviewed to ensure conformance with this Code. However, the following criteria shall be considered when reviewing master plans:

A. Logic of design.

B. Internal consistency.

C. Impact on neighboring sites.

D. Internal vehicular and pedestrian connectivity.

E. Consolidation of utilities and facilities, including stormwater, parking, signage, etc.

F. Public benefit derived from the project.

2.10.05. *Effect of master plan approval.*

A. Approval of a master plan development order authorizes an applicant to continue with the preliminary plat or technical site plan review process.

B. The approved Nonresidential Controlling Master Site Plan Development Order shall act as the controlling document for the development specifying, but not limited to, location of primary buildings and outparcels, landscape buffers, master stormwater, drainage, access drives, parking, and pedestrian facilities. However, site plans and preliminary plats can allow up to a 25 percent accumulative design change from the master plan. No deviation from LDC requirements may be approved during the City staff review process.

Sec. 2.11. - Technical Site Plan.

2.11.01. *Purpose.* The site plan review process set forth in this section is intended to ensure that site development, including mixed use development on a single site, takes place in an orderly and efficient manner through a process that provides adequate review based on the size and complexity

of the proposed development.

2.11.02. *Applicability.* The purpose of final site plan review is to ensure compliance with all development regulations. Therefore, the level of detail shall be that of construction plans and technical specifications. The review is based not only on conformance to Code, but also conformance with an approved master plan, if applicable.

2.11.03. *Review procedures.* Site plan review shall be processed in accordance with Section 2.05.

2.11.04. *Effect of site plan approval.* Approval of the construction plans and technical specifications represents the final development order. Therefore, approval of a Site Plan Development Order authorizes an applicant to apply for a building permit.

Sec. 2.12. - Variance.

2.12.01. *Purpose.* This section is established to provide standards and procedures for the granting of variances from the provisions of this LDC through review by the Planning and Land Development Regulation Board when it finds that there are conditions peculiar to the property that creates undue construction or development hardships in complying with this LDC.

2.12.02. *Applicability.*

A. *Authorized variances.* The variance procedures contained in this section shall apply to the development standards set forth in the following portions of this Code:
   1. Chapter 1, Section 1.10—Nonconformities.
   2. Chapter 3—Zoning, Uses, and Dimensional Standards.
   3. Chapter 4—Conditions for Limited Specific Uses and Activities.
   4. Chapter 5—Transportation, Connectivity, Access, and Parking.
   5. Chapter 10—Environmental and Cultural Resource Protection.
   6. Chapter 11—Tree Protection, Landscaping, Buffers, and Irrigation.
   7. Chapter 12—Signs and Advertising.
   8. Chapter 13—Architectural Design Regulations.

B. *Prohibited variances.* A variance shall not be granted under any of the following circumstances:
   1. A variance that would permit an inconsistency with the Comprehensive Plan.
   2. A variance to permit a use, expressly or by implication, prohibited in the zoning district.
   3. A variance to permit a development density or intensity not generally allowable in the zoning district.
   4. A variance in connection with any use or activity that has been approved as a special exception, if within the area covered by the special exception approval.
   5. A variance ~~based on the permitted or~~that would permit a new nonconforming use of neighboring lands, structures, or buildings.
   6. A variance that would violate requirements or regulations of other departments or agencies.
   7. A variance that would violate specific prohibitions (for example, hours of operation), or procedural requirements.

8. A variance based on purely economic considerations.

2.12.03. *Review findings.* In addition to the findings listed in Subsection 2.05.05 for all development orders, variance applications shall be reviewed based on the following:

A. *All variances.* No application for a variance shall be approved unless the Planning and Land Development Regulation Board finds that the following standards are met, recognizing that the applicant bears the burden of proof.

1. Special conditions and circumstances exist which are peculiar to the land, use, or building involved and which are not applicable to other lands, uses, or buildings in the same zoning district; and

2. The special conditions and circumstances are not self-imposed and do not result from the actions of the applicant; and

3. Literal interpretation of the provision of this LDC would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this LDC and would work unnecessary and undue hardship on the applicant; and

4. The variance is the minimum relief necessary that will make possible the reasonable use of the land or building; and

5. The granting of the variance will be in harmony with the general intent and purpose of this LDC and that such variance will not be injurious to the area involved or otherwise detrimental to the public health, safety, and welfare or injurious to other property in the area.

B. *Alternative criteria for specific variances.* There are alternative variance criteria for specific uses within this LDC that shall be adhered to. Such uses are as follows:

1. Marinas—Refer to Chapter 4.

2. Flood Damage Protection—Refer to Chapter 10.

3. Wellhead Protection—Refer to Chapter 10.

2.12.04. *Effect of variance approval.*

A. Approval of a variance application shall give the applicant authority to submit an application for development plan review and/or other appropriate approval. The Planning and Land Development Regulation Board may, within the action for which the variance is required, prescribe a reasonable time limit for which the approved request shall begin, be completed, or both. Unless prescribed as a condition of approval, there is no time limit for a variance.

B. A variance shall be approved only on the basis of the development plan submitted with the application and shall be valid only for the area of variance shown on the approved development plan. No approved variance shall be construed to be a general modification of the requirements of this LDC in any area outside the area of variance shown on the approved development plan.

Sec. 2.13. - Administrative Deviation of Development Standards.

2.13.01 *Purpose.* This section is established to provide a process for granting administrative deviation with the application of certain standards of this LDC. The process is specifically intended to promote high standards of site design, and to provide flexibility in the administration of standards in recognition of site specific conditions, and to establish conditions to ensure compatibility where standards are modified.

2.13.02. *Applicability.*

A. The Land Use Administrator may approve an administrative deviation of standards to grant relief from any of the following requirements of this Code, up to a maximum reduction of five percent of the standard:

1. Distance between structures.

2. Parcel dimensions (not area).

3. Setbacks.

B. The Land Use Administrator may grant a deviation in order to protect a specimen or historic tree, in which case one parking space or two percent of the total parking requirements, whichever is greater, may be eliminated.

C. The Land Use Administrator may also grant an administrative deviation of standards to the site planning or development standards of this LDC in compliance with this section, based on the finding that the waiver is necessary to accomplish a reasonable accommodation of the needs of a disabled person, in compliance with the Americans with Disabilities Act.

2.13.03. *Review procedures.* Administrative deviations of development standards are classified as minor development orders and shall be reviewed as specified in Section 2.05. However, the Land Use Administrator may choose to refer the application to the Planning and Land Development Regulation Board for hearing and decision in the same manner as provided for Variances in Section 2.12.

2.13.04. *Review findings.* The Land Use Administrator may approve an administrative deviation of standards only after first making all of the following findings, in addition to those listed in Subsection 2.05.05:

A. There are special circumstances applicable to the property, including size, shape, topography, location, or surroundings, so that the strict application of this Code deprives the property of privileges enjoyed by other properties in the vicinity and within the same zoning district;

B. The approval of the administrative deviation of standards includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and

C. The administrative deviation is consistent with any applicable specific plans in place for the subject property.

Sec. 2.14. - Development Agreements.

2.14.01. *Purpose.* This section is established to outline provisions relating to development agreements, which require approval by the City Council.

A. A development agreement may be entered into by an applicant and the City Council to provide for matters that relate to the unique conditions of the real property to be developed, the relationship between the public and private aspects of the development, or other terms and conditions that are not typical of a routine development order. Development authorized by a development agreement may be phased. The development agreement may provide that the entire development or any phase thereof shall be commenced or completed within a specific period of time.

B. Statutory development agreements may be entered into under the authority of the Development Agreement Act as codified in F.S. ch. 163 and processed in accordance with the requirements of state law.

C. Nonstatutory development agreements may be entered into under the authority of the home rule powers of the City of Palm Coast under Article VIII, Section 2 of the

Constitution of the State of Florida and F.S. ch. 166.

D. A development agreement shall be required for the development of property designated a Master Planned Development Zoning District on the Official Zoning Map, but the agreements shall not be statutory.

E. A development agreement is transferable if the land and structure(s) continues to be used for the purposes for which it was issued. No person (including successors and assigns of the person who obtained the development agreement) may make use of the land except in accordance with the conditions and requirements of the development agreement. The provisions of the development agreement run with and burden the real property to which it relates until released or amended in accordance with formal action of the City of Palm Coast. All development agreements shall require mortgagees to subordinate any mortgages on the property.

F. Duration and extension. The negotiated Master Plan Development Agreement which results from a master planned development application process shall have a maximum duration of five years or be phased to ensure that development under a Master Plan Development Agreement proceeds in good faith and the development of the master planned development is not abandoned and is not suspended in a manner which is adverse to the public interest. Upon the five-year term being completed or a phase of the master planned development not being developed in accordance with the phasing schedule set forth in the Master Plan Development Agreement, the City Council may, after obtaining a recommendation from the Planning and Land Development Regulation Board, extend the term of the Master Plan Development Agreement or the master planned development phase. In the interim, no development may be continued or permitted relative to the master planned development. ~~and absent an extension approval by means of a development order within three months of the date of expiration, the property shall revert to the zoning district which was assigned to the master planned development property prior to the Master Planned Development District rezoning.~~ A property owner may initiate a request for an extension prior to expiration.

Sec. 2.15. - Vested Rights Determination.

2.15.01. *Purpose.* This section is established to provide standards and procedures for the issuance of vested rights determinations by the City Council. No applicant claiming that the LDC as applied to a particular property constitutes or would constitute a permanent taking of private property or an abrogation of vested rights, may pursue such claim in court or before a quasi-judicial body unless the applicant has first exhausted the administrative remedies herein. The application shall set forth the facts upon which the claim is based and shall be accompanied by all contracts, letters, appraisals, reports, or other documents upon which the applicant's claim is based.

2.15.02. *Applicability*. The owner, or owners of real property, may request a determination of vested rights by filing a complete application with the Land Use Administrator on a form provided by the City.

A. The application shall provide a sworn statement to be executed by all owners of the real property or an authorized agent that all information set forth on the application is true and correct.

B. The Land Use Administrator shall screen each application for a vested rights determination to determine whether the application is technically complete. If not technically complete, the application shall be promptly returned to the applicant. A technically incomplete application shall be returned to the applicant with written notification of the deficient items. If a response is not submitted to the City within a time specified by the City, the application shall be deemed abandoned.

2.15.03. *Review procedures.* Vested rights determinations are classified as major development orders and shall be reviewed as specified in Section 2.05. In addition, the following procedural

requirements apply.

A. The City Council shall hold a public hearing and determine whether or not it has been clearly and convincingly demonstrated that the real property subject to the application has vested status. The City Council may refer the matter to the Planning and Land Development Regulation Board for an advisory opinion and review, or to a special master or hearing officer for findings of fact relative to the matter, or may make both such referrals.

B. At the hearing or hearings to which the matter has been referred, the applicant shall present all of the evidence in support of the application. The technical rules of evidence in judicial proceedings shall not be applicable, but all testimony given shall be under oath. The applicant shall have the burden of proof.

C. After making a final determination of vested rights status, the City Council shall provide the applicant with a written order setting forth the determination of vested rights status. If the City Council determines that vested rights exist and that development may proceed, the applicant shall have the right to rely upon such written notification that the real property is vested, and the determination that the real property is vested shall be final and not subject to appeal, revocation, or modification. Thereupon, permits may be granted consistent with that decision.

D. The City Council's decision to deny vested rights status shall be final, subject to appeal in accordance with state law.

(Ord. No. 2009-26, §§ 4, 5, 12-15-09)

Sec. 2.16. - Appeals.

2.16.01. *Appeal of administrative decision of the land use administrator.* Any person aggrieved by an administrative decision rendered by the Land Use Administrator regarding the provisions of this LDC may appeal such decision to the Planning and Land Development Regulation Board. The appeal shall be initiated within 15 calendar days of the rendering of the administrative decision by filing an appeal with the Land Use Administrator. Failure to file an appeal within the timeframe specified and exhaust all administrative remedies provided for in this LDC shall constitute a waiver of all rights to appeal the determination by the Land Use Administrator.

A. *Submittal.* A request for a hearing before the Planning and Land Development Regulation Board for an appeal of any determination made by the Land Use Administrator with regard to the administration of the uses and development regulations of this LDC shall be made as follows:

1. A completed appeal form and related fee shall be filed with the Land Use Administrator. Such application shall state the grounds for review of the decision. Any additional grounds may not be stated at the appeal hearing.

2. The appeal form shall be accompanied by such other materials and drawings as needed by the Planning and Land Development Regulation Board to clearly understand the substance of the appeal.

B. *Review procedures.* The application shall be submitted to the Planning and Land Development Regulation Board, which shall review the application and either grant or deny the request in accordance with the following:

1. In exercising the powers granted, the Planning and Land Development Regulation Board may, in conformity with the provisions of this LDC, reverse or affirm, wholly or in part, or may modify the order, requirements, decision, or determinations of the Land Use Administrator.

2. Any petition for a hearing before the Planning and Land Development Regulation Board may be withdrawn prior to action thereon by the Planning and Land Development Regulation Board at the discretion of the applicant upon written

notice to the City. The withdrawal of an application shall not result in a refund of the application fee.

3. When considering an appeal all of the following factors, at a minimum, shall be evaluated:
    a. Whether the action requested in the appeal is consistent with the Comprehensive Plan; and
    b. Whether the action requested in the appeal complies with all relevant and appropriate portions of this LDC; and
    c. Whether there was an error of fact or law in the decision of the Land Use Administrator.
4. At the conclusion of the appeal hearing, the Planning and Land Development Regulation Board shall issue a final decision on the appeal.

2.16.02. *Appeal of planning and land development regulation board decision.*

A. *Public notice requirements.* Notification shall be in accordance with Section 2.05, if applicable.

B. *Submittal.* Within 30 calendar days of the rendering of a decision by the Planning and Land Development Regulation Board, an appeal may be filed with the City Clerk by the owner, an abutting property owner, or the Land Use Administrator. An application together with a fee as established by resolution shall be required.

C. *Review procedures.* The application shall be forwarded to the City Council and, if applicable, after due public notice, for a public hearing to consider the application. The public hearing shall be a de novo hearing and shall be conducted in accordance with the following:

1. Hearing steps.
    a. Preliminary matters.
        (1) The Mayor shall read the case title.
        (2) Disclosure by City Council members of ex parte communications, if any.
        (3) Swearing in of appellant, City staff, and all witnesses collectively. The swearing in of witnesses may be left to the discretion of the Mayor with the concurrence of the appellant.
    b. City staff's presentation.
        (1) City staff's opening statement.
        (2) Calling of witnesses and presentation of evidence by City staff.
        (3) Cross-examination after each witness, if so elected.
    c. Appellant's opening statement.
        (1) Calling of witnesses and presentation of evidence by appellant.
        (2) Cross-examination after each witness, if so elected.
    d. Public input. Testimony and presentation of evidence by the public with alternating speakers in support of and in opposition to the appeal and cross-examination after each witness, if so elected.
    e. Closing argument by appellant.

f. Closing argument by City staff.

g. Rebuttal argument by appellant, if so elected.

h. Discussion by City Council of the evidence presented as it applies to the requirements of the City of Palm Coast Code of Ordinances and applicable law.

i. After deliberation, a motion should be made which would presumably either:

AFFIRM THE PLANNING AND LAND DEVELOPMENT REGULATION BOARD'S ACTION: "I

move that the City Council find that the following facts presented and reviewed here are competent substantial evidence to affirm the Planning and Land Development Regulation Board's action: (list factors)"; or

REVERSE THE PLANNING AND LAND DEVELOPMENT REGULATION BOARD'S ACTION: "I

move that the City Council find that the following facts presented and reviewed here are competent substantial evidence to reverse the Planning and Land Development Regulation Board's action: (list factors)."

2. In the event the applicant is the appellant, the applicant, or City staff as determined by the Land Use Administrator, shall send a letter to the property owners abutting subject property advising them of the date and time of the meeting.

3. In the event that an abutting property owner is the appellant, this person will act as spokesperson or appoint a representative. In this case, a special letter will be sent to the applicant stating that an appeal has been filed and that they or their representative will be called upon to act as an opposition spokesperson.

4. In accordance with Subsection 2.05.01.I, the rendering of a decision shall mean the filing of a written development order or a written denial of a development order in the office of the City Clerk.

5. Unless the order specifically states it is an order without prejudice, it is rendered with prejudice.

D. *Rehearing.*

1. If it is alleged that the Planning and Land Development Regulation Board or City Council, as the case may be, has overlooked or misapprehended some facts or points of law, a rehearing of any decision of the Planning and Land Development Regulation Board or City Council may be granted by the Planning and Land Development Regulation Board or City Council either on the motion of any member voting on the prevailing side, or on the motion of any person aggrieved by its decision. That motion shall be in writing, shall be filed with the Land Use Administrator within ten working days after rendition of the decision, and shall state its grounds.

2. If the Planning and Land Development Regulation Board or City Council decide to grant a rehearing, the movant shall notify by certified mail or hand delivery upon the City Clerk and all abutting property owners previously notified of the hearing, together with a notice stating the date, time, and place it will be orally presented to the Planning and Land Development Regulation Board or City Council.

3. The Planning and Land Development Regulation Board or City Council shall not rehear applications based upon the same facts or issues, but rather on new

evidence not heard before or new law.

(Ord. No. 2009-26, §§ 6—9, 12-15-09)

Sec. 2.17. - Lot Binding, Unbinding, and Vacation of Easements.

2.17.01. *Short title/legislative findings and intent.* This section shall be known and may be cited as the "Palm Coast Lot Binding and Unbinding and Vacation of Easements Ordinance."

2.17.02. *Binding of lots.* A common owner of two or more adjoining subdivided lots or portions of subdivided lots may make application to the City for approval of the lots being bound for development purposes. No more than four lots may be bound together by the process set forth in this section. Lot binding, as set forth in this section, may be permitted solely ~~be~~ for purposes of compliance with the land development regulations of the City as set forth in the City's Land Development Code.

2.17.03. *Application process.*

A. The owner of adjoining lots shall present a proposed lot binding agreement or an agreement that provides for the unbinding of lots which contains a full and complete legal description of all subdivision lots proposed to be bound together or unbound from one another to the City Manager or designee.

B. Each lot binding agreement shall provide, at a minimum, the following:

1. That the real property described shall be retained in and shall remain as a single, integral parcel, and shall not be sold or otherwise disposed of, or encumbered, in lesser constituent parcels.

2. That the agreement shall be binding upon all successors, heirs, executors, administrators or assigns of the owner and shall be a covenant running with the land.

C. Agreements unbinding lots shall be in a form approved by the City Manager after consultation with the City Attorney. Applications to unbind lots shall not create a nonconformity in accordance with Section 1.10.

2.17.04. *Approval authority.* The City Manager or designee, upon submittal of all appropriate information in accordance with the provisions of this section and upon making a finding that there are no easements that require vacation may approve the binding and unbinding of lots in accordance with this section; or if the City Manager or designee may determine that City easements required to be released, abandoned or vacated can be released abandoned or vacated in accordance with the provisions of Subsection 2.17.05. City Council shall approve the binding or unbinding of three or more lots.

2.17.05. *Effect of existence of easements.*

A. If private or public easements require release, vacation or abandonment at the time that the proposed binding lot agreement is approved, the owner shall present all documents needed to accomplish the release, vacation and abandonment. Documentation that any private easements have been released or relocated shall be provided to the City Manager or designee.

B. The City Manager or designee is hereby delegated the authority to release, vacate and abandon any public easements along any common lot line if it is determined that the City no longer needs the public easement and that any then current users of the public easement have no objection to the action or if a conditional action can facilitate the use of any required public easement. Said public easements may only be released, in accordance with this section if it is found that the lot owner has made an application for a building permit to construct a structure upon the easement.

C. The City Manager or designee may require the granting of easements or the imposition

of other conditions as may be necessary prior to the approval of the binding or unbinding of lots.

2.17.06. *Fees.* The City Council may establish application fees from time-to-time relating to the provisions of this section by adoption of a resolution that may be part of a general City fee resolution relating to diverse actions and activities of the City.

2.17.07. *Recording of agreements.*

A. Each approved lot binding or unbinding agreement together with the action releasing, vacating, abandoning, or granting any easement(s) shall be recorded in the Official Records of Flagler County (land records) at the expense of the owner.

B. After recordation, copies of the recorded lot binding or unbinding agreement and action relative to the easement(s) shall be provided by the owner to the City Manager or designee at the cost of the owner for recordation in the City's records. No such action shall take effect until recorded in the City's records.

(Ord. No. 2004-10, §§ 1—7, 5-4-04)

**Editor's note—** Inasmuch as Ord. No. 2004-10 was inadvertently omitted during the original codification of the Land Development Code, and at the discretion of the editor, the provisions of said ordinance have been designated as Section 2.17.

# Chapter 3 - ZONING, USES, AND DIMENSIONAL STANDARDS

## Sec. 3.01. - In General.

3.01.01. *Establishment of zoning districts.* The City of Palm Coast, Florida is hereby divided into the following zoning districts. Each zoning district allows a set of uses that are consistent with its purpose and also a set of land development regulations designed to achieve the purpose of the district.

A. AGR—Agriculture District

B. EST-1; EST-2—Rural and Suburban Estate Districts

C. SFR-1; SFR-2; SFR-3; SFR-4; SFR-5—Single-Family Residential Districts

D. DPX—Duplex Residential District

E. MFR-1; MFR-2—Multifamily Residential Districts

F. MHD—Mobile Home District

G. MPD—Master Planned Development District

H. COM-1; COM-2; COM-3—Commercial Districts

I. OFC-1; OFC-2—Office Districts

J. IND-1; IND-2—Industrial Districts

K. PSP—Public/Semipublic District

L. P&G—Parks and Greenways District

M. PRS—Preservation District

3.01.02. *Official zoning map.*

A. *Zoning district boundaries.* The boundaries of the zoning districts are hereby established and shall be delineated on the Official Zoning Map for the City. The Map shall be kept on file in the offices of the City Clerk and shall be the official record of the zoning designation of properties within the City.

B. *Establishment of the Master Planned Development (MPD) zoning district.* This chapter establishes the Master Planned Development (MPD) zoning district to replace the following mixed use zoning districts: Village Center (VGC-1 and VGC-2), Golf Course Community (GCC), Planned Unit Development (PUD) and Planned Rural Development (PRD). These former mixed use zoning districts are now referenced in this Code as "former VGC-1," "former VGC-2," "former GCC," "former PUD," and "former PRD," and will remain on the Official Zoning Map; however, these districts are depicted by a hatch pattern that identifies them as "former" zoning districts. The map legend shall state that these hatched pattern zoning districts were designated prior to the adoption of the current Official Zoning Map, in effect as of November 16, 2008, and that after this date no parcels of land may be rezoned to any of the zoning districts designated as "former."

3.01.03. *Adoption, identification, and amendments.* The following shall apply to adoption and amendments to the Official Zoning Map:

A. The City of Palm Coast Official Zoning Map shall be adopted by ordinance of the City Council after considering the recommendations of the Planning and Land Development Regulation Board.

B. If, in accordance with the provisions of this LDC and F.S. ch. 163 , changes are made in district boundaries or other matter portrayed on the City of Palm Coast Official Zoning Map, such changes shall be entered on the Official Zoning Map after enactment of the amending ordinance.

C. Change of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with procedures set forth in this LDC or in F.S. ch. 163 . Any unauthorized change shall be null and void and have no force or effect.

D. Regardless of the existence of purported copies of the Official Zoning Map that may from time-to-time be made or published, the Official Zoning Map shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

E. Unless a prior Official Zoning Map has been lost or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment, in the office of the City Clerk.

3.01.04. *Future land use map—Zoning district compatibility.* All development in the City shall be consistent with the Comprehensive Plan and the Future Land Use Map (FLUM). Each future land use category contains a set of zoning districts that may be permitted within its boundaries. No property shall be rezoned unless it is to a district that is compatible with the future land use designation of the site. The following table correlates individual zoning districts with the compatible future land use categories.

*Table 3-1: Future Land Use Map/Zoning District Compatibility*

| FLUM Land Use Category | Zoning Districts Permitted |
|---|---|
| Low-Density Residential | SFR-2, SFR-3, SFR-4, SFR-5, EST-1, EST-2, DPX, and MPD |
| Residential | SFR-1, SFR-2, SFR-3, SFR-4, SFR-5, EST-1, EST-2, DPX, MFR-1, MFR-2, MHD, PSP, P&G, PRS, and MPD |
| Institutional | OFC-1, MPD, PSP, P&G, and PRS |
| Mixed Use | SFR-1, SFR-2, SFR-3, SFR-4, SFR-5, EST-1, EST-2, DPX, MFR-1, MFR-2, MHD, COM-1, COM-2, COM-3, OFC-1, OFC-2, IND-1, PSP, P&G, PRS, and MPD |
| Industrial | OFC-1, COM-2, COM-3, IND-1, IND-2, MPD, PSP, P&G, and PRS |
| Greenbelt | EST-1, EST-2, AGR, P&G, PSP, PRS, and MPD |
| Conservation | PRS |
| Development of Regional Impact | As approved by the Development of Regional Impact. |
| Master Planned Mixed Use | MPD |

3.01.05. *Rules for interpretation of district boundaries.* Where uncertainty exists as to the boundaries of districts as shown on the City of Palm Coast Official Zoning Map, the following rules shall apply and shall be implemented by the Land Use Administrator:

A. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

B. Boundaries indicated as approximately following platted lot lines or parcel lines shall be construed as following such lot lines or parcel lines.

C. Boundaries indicated as approximately following City Limits shall be construed as following the City Limits.

D. Boundaries indicated as following railroad lines shall be construed to be midway between the rails of the main line.

E. Boundaries indicated as following shorelines shall be construed to follow the mean high water line, and in the event of change in the shoreline shall be construed as moving with the line.

F. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

G. Boundaries indicated as parallel to or extensions of features indicated above shall be so construed.

H. Where physical features such as streets, railroad lines, rivers, streams and such, existing on the ground are at variance with those shown on the City of Palm Coast Official Zoning Map, or in other circumstances not covered above, the Land Use Administrator shall make a written interpretation of the district boundaries.

I. The Land Use Administrator may require that a professional survey be submitted prior to making a boundary determination.

3.01.06. *Uses not permitted in the city.* The following uses may be permitted by a super majority vote of the City Council subsequent to an affirmative or negative recommendation by the Planning and Land Development Regulation Board. This is due to their potential incompatibility with current development trends in the City, their potential deleterious effects upon the public health, safety, and welfare, and the potential likelihood that they will create nuisances and significant adverse impacts upon adjacent land uses. The list is not all-inclusive and other uses found by the Land Use Administrator to be similar in nature and character to the listed uses shall also require approval by the City Council in the aforementioned manner.

Asphalt Manufacturing Plants

Animal Feed Lots and Livestock Operations

Bottle Clubs

Bulk Fuel Depot or Oil Refineries

Data Centers

Deep Well Injection of Waste Products

Dog Farms

Hog and Poultry Farms

Incinerator Plants

Junkyards, Salvage Yards

Motor Vehicle Race Tracks

Paper and Pulp Mills

3.01.07. *Uses not listed in this chapter.* The listing of permitted principal uses, special exception uses, accessory uses and limited uses in a zoning district is not meant to be all-inclusive, nor is the list of uses that are not permitted intended to be all inclusive. Uses not specifically listed shall be reviewed by the Land Use Administrator to determine if the proposed use is similar in nature and character to others listed in the zoning district. The North American Industry Classification System manual, as amended, shall serve as a general guideline in making this determination. Based on the determination, the proposed use shall be classified in the same manner as those similar uses listed in terms of it being permitted as a principal, special exception, accessory, or limited use. The Land Use Administrator may also determine that other uses are not permitted on the basis that they are not similar in nature or character to the other uses listed in the zoning district. Determinations may be appealed in accordance with the appeal procedures established in Chapter 2.

( Ord. No. 2016-4 , § 2, 3-15-16)

Sec. 3.02. - Residential Zoning Districts.

3.02.01. *Purpose of districts.*

A. *Agriculture Zoning District (AGR).* The purpose of the Agriculture District is to provide areas for limited agricultural, farming, and silviculture uses. The development of detached single-family dwellings and accessory uses, including home occupations common to rural areas, is also permissible.

B. *Suburban and Rural Estate Zoning Districts (EST-1 and EST-2).* The purpose of the Estate Districts is to provide areas for detached single-family dwellings and accessory uses on estate-sized lots to create very low-density neighborhoods in suburban and rural areas.

C. *Single-Family Residential Zoning Districts (SFR-1, SFR-2, SFR-3, SFR-4, and SFR-5).* The purpose of the Single-Family Residential Districts is to provide areas for detached single-family dwellings and accessory uses in low to medium density residential neighborhoods.

D. *Duplex (DPX).* The purpose of the Duplex District is to provide areas for two-family residential structures, combined with single-family and attached homes, in medium-density residential neighborhoods.

E. *Multifamily Residential Zoning Districts (MFR-1 and MFR-2).* The purpose of the Multifamily Residential Districts is to provide areas for attached housing, and medium to high-density apartments or condominiums. These districts also provide opportunities for assisted living or nursing homes and townhouse development.

F. *Mobile Home Zoning District (MHD).* The purpose of the Mobile Home District is to provide areas for detached mobile or manufactured home dwellings in low to medium density manufactured/mobile home parks or master planned residential subdivisions.

3.02.02. *Residential Districts—Allowable Uses.* The following table contains a list of uses allowed in each district, and specifies if they are permitted by right (P) or if they require special exception approval (S) in accordance with Chapter 2. Uses permitted only as accessory to a principal use are noted with an (A). All uses marked with an (L) have additional limitations specific to that use listed in Chapter 4.

*Table 3-2. Residential Zoning Districts—Use Table*

| USES | SFR-1 | SFR-2 | SFR-3 | SFR 4 & 5 | EST-1 | EST-2 | AGR | DPX | MFR 1 & 2 | MHD | MPD [1] |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **RESIDENTIAL** | | | | | | | | | | | |
| Adult Family Care Home | P | P | P | P | P | P | P | - | - | - | P |
| Assisted Living Facilities | - | - | - | - | - | - | - | - | P | - | P |
| Boarding and Rooming Houses | - | - | - | - | - | - | - | - | S | - | P |
| Cluster Development **(L)** | P | P | P | P | P | P | - | P | - | - | P |
| *Community Residential Homes (1-6 persons) **(L)** [2] | P | P | P | P | P | P | P | P | P | P | P |
| *Community Residential Homes (7-14 persons) **(L)** [2] | - | - | - | - | - | - | - | - | P | - | P |
| Duplex **(L)** | - | - | - | - | - | - | - | P | - | - | P |
| Family Child Day Care Home, Small | P | P | P | P | P | P | P | - | - | - | P |
| Family Child Day Care Home, Large | - | - | - | - | S | S | P | - | S | - | P |
| Farm Worker/Labor Housing | - | - | - | - | - | S | P | - | - | - | - |
| Mobile Home Parks **(L)** | - | - | - | - | - | - | - | - | - | P | - |
| Mobile / Manufactured Home Subdivision **(L)** | - | - | - | - | - | - | - | - | - | P | - |
| Multifamily Dwellings **(L)** | - | - | - | - | - | - | - | - | P | - | P |
| Neotraditional Development **(L)** | P | P | P | P | - | - | - | - | P | - | P |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Nursing Homes | - | - | - | - | - | - | - | - | P | - | P |
| Recovery Residence (1-10 persons) (L) | P | P | P | P | P | P | P | P | P | P | P |
| Recovery Residence (11-20 persons) (L) | - | - | - | - | - | - | - | - | S | - | P |
| Single-Family Detached Dwelling Units | P | P | P | P | P | P | P | P | - | - | P |
| Townhouses **(L)** | - | - | - | - | - | - | - | P | P | - | P |
| **NONRESIDENTIAL** | | | | | | | | | | | |
| Adult Day Care Centers | - | - | - | - | - | - | - | - | S | - | P |
| Agriculture, Silviculture, and Other **(L)** | | | | | | | | | | | |
| Agricultural Uses, bona fide uses (except feedlots) | - | - | - | - | - | S | P | - | - | - | - |
| Animal Husbandry | - | - | - | - | - | S | S | - | - | - | - |
| Aviaries | - | - | - | - | - | A | A | - | - | - | - |
| Crop Production | - | - | - | - | - | P | P | - | - | - | - |
| Equestrian Activities and Uses | - | - | - | - | - | P | P | - | - | - | P |
| Farm Animals (other than horses) | - | - | - | - | - | S | P | - | - | - | - |
| Forestry (Logging/Timber Tract Operations, plant nurseries) | - | - | - | - | - | - | P | - | - | - | - |
| Horses | - | - | - | - | P | P | P | - | - | - | P |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| Silviculture | - | - | - | - | - | - | P | | P | P | P |
| Sod Farms | - | - | - | - | - | - | P | - | - | - | - |
| Bed and Breakfast Inns | - | - | - | - | ~~-~~S | ~~-~~S | ~~-~~S | - | S | - | ~~S~~ P |
| Cemeteries **(L)** | - | - | - | - | - | S | P | - | - | - | P |
| Child Day Care Centers | - | - | - | - | - | - | - | - | S | - | P |
| ~~Home Occupations Class 1~~Home Based Businesses **(L)** | A | A | A | A | A | A | A | A | A | A | A |
| ~~Home Occupations Class 2 **(L)**~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ |
| ~~Home Occupations Class 3 **(L)**~~ | ~~-~~ | ~~-~~ | ~~-~~ | ~~-~~ | ~~SA~~ | ~~SA~~ | ~~A~~ | ~~-~~ | ~~-~~ | ~~-~~ | ~~A~~ |
| Kennels and Pet Boarding | - | - | - | - | - | - | P | - | - | - | P |
| Marina (Noncommercial) **(L)** | A | A | A | A | A | A | A | A | A | A | A |
| Marina (Commercial) **(L)** | S | S | S | S | S | S | S | S | S | S | P |
| Mining and Soil Extraction **(L)** | - | - | - | - | - | - | S | - | - | - | - |
| Public Parks and Recreational Facilities | P | P | P | P | P | P | P | P | P | P | P |
| Pump Stations and Well Sites | P | P | P | P | P | P | P | P | P | P | P |
| RV Parks and Camps **(L)** | - | - | - | - | - | - | S | - | - | - | ~~-~~P |
| Schools, Elementary and Secondary (public and private, including charter schools) **(L)** | P | P | P | P | P | P | ~~-~~P | P | P | P | P |
| Short-term Vacation Rental[3] | P | P | P | P | P | P | P | P | P | P | P |
| Veterinary Clinics and Services | - | - | - | - | - | S | P | - | - | - | P |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| Wholesale/Retail Fertilizer Sales | - | - | - | - | - | - | P | - | - | - | - |
| Wireless Communication Facilities **(L)** | L | L | L | L | L | L | L | L | L | L | L |

~~*This number is per the Florida Building Code, which may be amended from time to time for compliance with the Florida Building Code.~~

**Footnotes for Table 3-2:**

[1] Only if use is specifically mentioned within the MPD Development Agreement.

[2] Community Residential Homes are regulated by Florida Statute 419.001. Large Community Residential Homes having a number of residents between 7-14 are also subject to proximity regulations within the statute. Community Residential Homes due to the occupancy number of beds may have additional requirements under Florida Building Code comparatively to Single-Family Residential homes.

[3] Short-term Vacation Rentals are subject to the requirements of Chapter 17, Article V of the Code of Ordinances.

3.02.03. *Residential Districts—Dimensional Standards.* Section 3.03 and Section 3.04 establishes additional standards for selected residential districts. The following table contains the dimensional standards for the various uses allowed in each residential district:

*Table 3-3: Residential Zoning Districts—Dimensional Standards*

| Standard | SFR-1 | SFR-2 | SFR-3 | SFR-4 | SFR-5 | EST-1 | EST-2 | AGR | MHD | DPX | MFR-1 | MFR-2 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Minimum Lot Size | 6,000 sq. ft. | 7,500 sq. ft. | 10,000 sq. ft. | 12,000 sq. ft. | 20,000 sq. ft. | 1.0 acre [1] | 2.5 acres [1] | 5 acres [2] | 4,000 sq. ft | 9,000 sq. ft. [3] | 2,500 sq. ft. [3] | 2,500 sq. ft. [3] |
| Minimum Development Site Size | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | 1 acre | N/A | 3 acres [4] | 4 acres [4] |
| Minimum Lot Width [5] | 50' | 60' | 80' | 80' | 100' | 100' | 150' | 200' | 40' | 30'/80 [6] | 25'/100' [6] | 25'/100' [6] |
| Maximum Density (units per acre) [7] | 7.0 | 5.0 | 4.0 | 3.0 | 2.0 | 1.0 | 0.4 | 0.2 | 8.0 | 8.0 | 8.0 | 12.0 |
| Minimum Living Area (square feet) | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 1,200 | 600 | 800 [12] | 650 | 650 |
| Minimum Front Setback [8] | 20' | 20' | 25' | 25' | 25' | 25' | 25' | 50' | 10' | 25' | 25' | 25' |

| | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Minimum Rear Setback [8] | 10' | 6.5' | 10' | 15' | 20' | 25' | 25' | 50' | 10' | 10' | 20' | 20' |
| Minimum Rear Street Setback [8] | 15' | 15' | 15' | 15' | 15' | 20' | 25' | 25' | 10' | 15' | 25' | 25' |
| Minimum Interior Side Setback [8] | 5' [9] | 7.5' | 7.5' | 7.5' | 10' | 10' | 15' | 25' | 5' | 7.5' [9] | 10' [9] | 10' [9] |
| Minimum Street Side Setback [8] | 15' | 15' | 20' | 20' | 20' | 20' | 25' | 25' | 10' | 20' | 20' | 20' |
| Maximum Impervious Surface Ratio (ISR) [10] | 0.75 | 0.75 | 0.70 | 0.70 | 0.50 | 0.50 | 0.50 | 0.25 | 0.70 | 0.70 | 0.70 | 0.70 |
| Maximum Building Height [11] | 35' | 35' | 35' | 35' | 35' | 35' | 35' | 35' | 35' | 35' | 50' | 60' |

**Table 3-3 Footnotes:**

[1] Residential lots in the EST-1 and EST-2 Districts shall have a contiguous upland area of at least 12,000 square feet. Residential lots utilizing well or septic systems shall have a contiguous upland area of at least one acre.

[2] Residential lots in the AGR District shall have a contiguous upland area of at least 20,000 square feet. Residential lots utilizing well or septic systems shall have a contiguous upland area of at least one acre.

[3] Minimum lot size 4,000 sq. ft. per lot for a legally divided duplex lot. Minimum lot size is shown for a townhouse lot in the MFR Districts.

[4] Minimum size for a manufactured/mobile home park in the MHD District and for multifamily development sites in the MFR-1 and MFR-2 Districts.

[5] Fifteen percent wider width required for corner lots. See Chapter 9 for subdivision design standards. In no event shall lot frontage on a street or access easement be less than 20 feet.

[6] Twenty-five-foot minimum lot width for townhouse lots; 100-foot minimum lot width for multifamily development sites. Thirty-foot minimum lot width per lot for a legally divided duplex lot. Eighty-foot minimum lot width for a detached single-family dwelling on a lot in the DPX District.

[7] See Section 3.05 regarding density calculation methodology.

[8] See Section 3.05 for setback determinations and setback requirements for multistory developments adjacent to residential zoning districts and wireless communication facilities and equipment compounds.

[9] The minimum interior side yard setback for townhouses shall be zero feet. Detached single-family dwellings in the existing subdivisions that were zoned for detached single-family dwellings in the former TWN District shall be zero feet on one side and a minimum distance of 15 feet between each dwelling unit.

[10] See Section 3.05 for ISR calculation methodology.

[11] See Subsection 3.04.04 for height restrictions within the Palm Coast Parkway Overlay Zone.

[12] The minimum living area requirement noted is per unit for a duplex. A single-family dwelling on a duplex lot must meet a minimum requirement of 1,200 square feet for living area.

(Ord. No. 2009-26, § 10, 12-15-09; Ord. No. 2015-9 , § 3, 8-4-15; Ord. No. 2018-02 , § 3, 2-6-18)

## Sec. 3.03. - Nonresidential and Mixed Use Zoning Districts.

### 3.03.01. *Purpose of districts.*

A. *Neighborhood, General, and High Intensity Commercial Zoning Districts (COM-1, COM-2, and COM-3)*

1. The purpose of the COM-1 (Neighborhood Commercial) District is to provide areas for limited commercial and office uses developed at a neighborhood scale to meet the day-to-day retail and service needs of nearby residents.
2. The purpose of the COM-2 (General Commercial) District is to provide areas for general commercial and office uses to meet the community-wide demand for retail, services, business, and employment opportunities.
3. The purpose of the COM-3 (High Intensity Commercial) District is to provide areas for the most intensive commercial uses including, but not limited to, those that focus on automobile sales and service, outdoor storage, and heavy traffic.

B. *Limited and General Office Zoning Districts (OFC-1 and OFC-2).*

1. The purpose of the OFC-1 (Limited Office) District is to provide areas for limited office development. This district is primarily intended to provide office support to larger institutional uses, such as medical offices surrounding hospitals. This district also allows for limited service and retail uses to meet the needs of office workers.
2. The purpose of the OFC-2 (General Office) District is to provide areas for various types of office uses, such as office parks, corporations, and other business and employment centers. This district also permits limited service and retail uses to meet the needs of office workers.

C. *Master Planned Development Zoning District (MPD).* The purpose of the Master Planned Development District is to provide areas where a variety of uses are mixed together in master planned developments and communities. This district utilizes cohesive architectural themes and emphasizes accessibility for pedestrians and bicyclists. Regulations for this district are intended to promote flexibility and creative land use planning and design concepts. The Master Planned Development District replaces the Village Center (VGC-1 and VGC-2), Golf Course Community (GCC), Planned Unit Development (PUD), and Planned Rural Development (PRD) zoning districts. Projects developed or approved within these former districts are bound to their respective Development Agreements and the uses that were formerly allowed in those districts; however, substantial revisions to a Development Agreement, as described in Subsection 2.09.07, will require an application under the terms and procedures of the Master Planned Development District and/or a rezoning. Subsection 3.03.04 establishes the development standards for the Master Planned Development District.

D. *Light and Heavy Industrial Zoning Districts (IND-1 and IND-2).*

1. The purpose of the IND-1 (Light and Warehousing Industrial) District is to provide areas for restricted industrial and warehouse uses of low to moderate intensities with minimal potential

for off-site impacts. This district utilizes performance standards to ensure that impacts are controlled.

2. The purpose of the IND-2 (Heavy Industrial) District is to permit a wide range of intensive industrial uses, which include, but are not limited to, those that are major users of water, produce greater amounts of hazardous and regulated waste, storage of significant amounts of chemicals, produce air emissions, or substantially impact the landscape through mining and soil extraction. This district utilizes performance standards to ensure that impacts are controlled to protect the public health, safety, and welfare.

E. *Public/Semipublic Zoning District (PSP).* The purpose of the Public/Semipublic District is to provide areas for government owned facilities, religious institutions, civic buildings, community club facilities, educational/vocational facilities, nonprofit organization facilities, and essential public services including, but not limited to, transit facilities, water and sewer utility plants and related facilities, and electrical power substations.

F. *Parks and Greenways Zoning District (P&G).* The purpose of the Parks and Greenways District is to provide areas for various parks including active recreational facilities as well as passive open spaces that provide for recreational opportunities. This district also includes areas for historical sites, outdoor museums, golf courses, driving ranges, and associated facilities.

G. *Preservation (PRS).* The purpose of the Preservation District is to provide for the protection of valuable and unique natural resource areas. This district allows minimal development for the purpose of providing public accessibility and basic facilities only.

3.03.02. *Nonresidential and Mixed Use Districts—Allowable Uses.* The following table contains a list of uses allowed in each district, and specifies if they are permitted by right (P) or if they require special exception approval (S) in accordance with Chapter 2. Uses permitted only as accessory to a principal use are noted with an (A). All uses marked with an (L) have additional limitations specific to that use listed in Chapter 4.

*Table 3-4. Nonresidential and Mixed Use Zoning Districts—Use Table*

| **Specific Use** Type | **COM-1** | **COM-2** | **COM-3** | **OFC-1** | **OFC-2** | **IND-1** | **IND-2** | **PSP** | **P & G** | **PRS** | **MPD**[1] |
|---|---|---|---|---|---|---|---|---|---|---|---|
| **Civic, Nonprofit and Institutional** | | | | | | | | | | | |
| Civic Uses: town hall, libraries, museums | P | P | P | P | P | S | - | P | - | - | P |
| Civic Uses: police, fire, postal service | P | P | P | P | P | P | S | P | - | - | P |
| Civic Clubs and Fraternal Organizations (L) | P | P | P | P | P | - | - | P | - | - | P |
| Hospice Services | S | P | P | S | P | - | - | P | - | - | P |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| Hospitals | - | P | P | - | P | - | - | P | - | - | P |
| Houses of Worship/Religious Institutions (L) | P | P | P | P | P | - | - | P | - | - | P |
| Nonprofit Organizations, (e.g., Humane Societies) (L) | P | P | P | P | P | - | - | P | - | - | P |
| **Eating, Drinking and Entertainment** | | | | | | | | | | | |
| Adult-Oriented Businesses (L) | - | - | - | - | - | - | P | - | - | - | - |
| Drinking Establishments (without outdoor entertainment) (L) | - | P | P | - | - | - | - | - | - | - | P |
| Drinking Establishments (with outdoor entertainment) (L) | - | S | P | - | - | - | - | - | - | - | P |
| Beer, Wine, and Liquor Stores (L) | P | P | P | P | P | - | - | - | - | - | P |
| Cafeterias, Coffee and Donut Shops, Snack Bars, Sandwich Shops, Delicatessens, Bakeries | P | P | P | P | P | S | - | P | - | - | P |
| Microbreweries, Micro Distilleries (L) | - | S | P | - | - | P | - | - | - | - | P |
| Mobile Food Dispensing Vehicle or Temporary Commercial Kitchens (L) | A | PA | PA | - | - | PA | - | A | A | - | PA |
| Performing Arts Facilities (e.g. dinner theaters) | S | P | P | - | - | - | - | P | - | - | P |
| Pizza Delivery Establishments and Takeout Places | P | P | P | P | P | S | - | - | - | - | P |

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| Restaurants, Fast Food (L) | - | P | P | - | - | - | - | - | - | - | P |
| Restaurants, Sit-Down | P | P | P | P | P | - | - | - | - | - | P |
| **Educational Facilities** | | | | | | | | | | | |
| Elementary/Secondary Schools (public and private) (L) | P | P | P | P | P | - | - | P | - | - | P |
| Colleges/Universities | S | S | P | S | P | - | - | P | - | - | P |
| **Industrial Uses (L)** | | | | | | | | | | | |
| Manufacturing, Heavy (L) | - | - | - | - | - | S | P | - | - | - | –P |
| Manufacturing, Light (L) | - | - | - | - | - | P | P | - | - | - | P |
| Material Recovery Facilities (e.g. recycling centers) | - | - | - | - | - | P | P | - | - | - | –P |
| Mining and Soil Extraction (L) | - | - | - | - | - | - | S | - | - | - | - |
| **Laboratories** | | | | | | | | | | | |
| Medical and Diagnostic Laboratories | S | P | P | P | P | P | - | - | - | - | P |
| Dental Labs | P | P | P | P | P | - | - | - | - | - | P |
| **Multiuse Building (L)** | P | P | S | P | P | - | - | - | - | - | P |
| **Office, Medical and Professional** | | | | | | | | | | | |
| Banks and Credit Unions | P | P | P | P | P | - | - | - | - | - | P |
| Building Contractors | - | S | P | S | P | P | - | - | - | - | P |
| Mail Order Facilities | P | P | P | P | P | P | - | - | - | - | P |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| Medical and Professional Offices | P | P | P | P | P | - | - | - | - | - | P |
| Outpatient Care Facilities | P | P | P | P | P | - | - | - | - | - | P |
| Pharmacies [2] | - | P | P | P | P | - | - | - | - | - | P |
| Scientific and Technical (e.g. architects, engineers, design, programming, and consulting) | P | P | P | P | P | S | - | - | - | - | P |
| Temporary Employment Agencies and Management Services | P | P | P | P | P | - | - | - | - | - | P |
| Veterinarians (without kennels/post-operative care only) | P | P | P | P | P | - | - | - | - | - | P |
| **Recreation and Tourism** | | | | | | | | | | | |
| Bed and Breakfast Inns | P | P | P | - | - | - | - | - | - | - | P |
| Electronic Game Promotion Establishments | - | S | P | - | - | - | - | - | - | - | P |
| Golf Courses, Driving Ranges, and Country Clubs | - | - | - | - | - | - | - | - | P | - | P |
| Hotels | - | P | P | P | P | - | - | - | - | - | P |
| Marinas (Commercial) (L) | P | P | P | P | P | P | P | P | S | - | P |
| Motels | - | P | P | - | - | - | - | - | - | - | P |
| Public Parks and Recreation Facilities | P | S | S | S | S | S | S | P | - | P | P |
| Recreation, Indoor | P | P | P | - | - | - | - | - | - | - | P |
| Recreation, Outdoor | - | S | P | - | - | - | - | P | P | S | P |

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| RV Parks and Camps (L) | - | - | - | - | - | - | - | - | P | - | P |
| Shooting and Target Ranges (indoor) | - | - | S | - | - | P | - | - | - | - | P |
| Stadiums and Athletic/Sports Arenas | - | - | P | - | - | - | - | P | - | - | P |
| **Residential** | | | | | | | | | | | |
| Assisted Living Facilities, Nursing Homes | P | P | P | P | P | - | - | P | - | - | P |
| Caretaker's Dwellings | - | S | S | - | S | S | S | S | S | S | P |
| Community Residential Homes (7 to 14 residents) | - | - | - | - | - | - | - | - | - | - | P |
| On-site dwelling units for agents or employees of principal use. | - | - | - | - | S | - | - | S | S | S | P |
| Dormitories | S | S | S | - | - | - | - | S | - | - | P |
| Live Local Mixed-Use Residential Developments[4] | P | P | P | P | P | P | P | P | - | - | P |
| **Retail Sales and Services** | | | | | | | | | | | |
| Art Dealers | - | P | P | P | P | - | - | - | - | - | P |
| Automotive Parts (e.g. accessories and tires) | - | S | P | - | - | P | - | - | - | - | P |
| Building Material Stores (paint, hardware) | P | P | P | - | - | P | - | - | - | - | P |
| Clothing and Accessory Stores (e.g. shoes and luggage) | P | P | P | S | P | - | - | - | - | - | P |

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| Retail (L) | P | P | P | - | - | - | - | - | - | - | P |
| Florists | P | P | P | P | P | - | - | - | - | - | P |
| Food and Beverage Stores (supermarkets and specialty foods) | P | P | P | P | P | - | - | - | - | - | P |
| Furniture and Home Furnishings Stores | P | P | P | - | P | P | - | - | - | - | P |
| Home Improvement Centers | - | P | P | - | - | P | - | - | - | - | P |
| Large-Scale Retail Centers (L) | - | P | P | - | - | - | - | - | - | - | P |
| Lawn and Garden Equipment and Supplies Stores | P | P | P | - | - | P | - | - | - | - | P |
| Model Home Centers (L) | P | P | P | P | P | - | - | - | - | - | P |
| Pet (domestic) Stores | P | P | P | - | - | - | - | - | - | - | P |
| Plant Nurseries | P | P | P | - | - | - | - | - | - | - | P |
| Photo Finishing | P | P | P | P | P | - | - | - | - | - | P |
| Small Box Discount Stores [3] | - | P | P | - | - | - | - | - | - | - | P |
| Sporting Goods, Hobby, Book and Music Stores | P | P | P | P | P | - | - | - | - | - | P |
| Used Merchandise Stores | S | P | P | - | - | - | - | - | - | - | P |
| **Service, Business** | | | | | | | | | | | |
| Printing and Publishing | S | P | P | S | P | P | S | - | - | - | P |
| All other business services | P | P | P | P | P | P | P | - | - | - | P |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| **Service, Personal** | | | | | | | | | | | |
| Adult Day Care Centers | P | P | P | P | P | - | - | - | - | - | P |
| Bail Bonding | - | S | P | - | - | - | - | - | - | - | P |
| Child Day Care Centers | P | P | P | P | P | - | - | - | - | - | P |
| Funeral Homes | S | P | P | S | P | - | - | - | - | - | P |
| Tarot Card, Psychic, and Palm Readings | - | S | P | - | - | - | - | - | - | - | P |
| Tattooing, Body Piercing, and other Body Art | - | ~~S~~ P | P | - | - | - | - | - | - | - | P |
| All other personal service uses | P | P | P | P | P | P | - | - | - | - | P |
| **Service, Major** | | | | | | | | | | | |
| Data Centers | - | - | - | - | - | - | - | - | - | - | - |
| Heavy Construction and Land Excavation Contractors | - | - | - | - | - | P | P | - | - | - | ~~-~~ P |
| Kennels and Animal Boarding | - | S | P | - | - | P | - | - | - | - | P |
| Landscaping Services | P | P | P | - | - | P | S | - | - | - | ~~-~~ P |
| Machine Shops and Tool and Die | - | - | - | - | - | P | P | - | - | - | ~~-~~ P |
| Repair Services for Commercial and Industrial Machinery and Equipment | - | S | P | - | - | P | P | - | - | - | ~~-~~ P |
| Truck Stops | - | - | S | - | - | P | P | - | - | - | ~~-~~ P |
| **Training Facilities** | | | | | | | | | | | |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| Automobile Driver Schools | P | P | P | P | P | - | - | P | - | - | ~~-~~P |
| Technical/Trade Schools | P | P | P | P | P | P | S | P | - | - | P |
| Trucks and Heavy Equipment Driving Schools | - | - | P | - | - | P | P | P | - | - | ~~-~~P |
| **Utilities and Public Works** | | | | | | | | | | | |
| Dredge Spoil Disposal | - | - | - | - | - | - | - | S | - | - | - |
| Landfills (for nonhazardous, organic debris or construction debris only) | - | - | - | - | - | - | - | S | - | - | - |
| L~~-~~P Gas Dealer and Bulk Storage | - | S | P | - | - | P | S | - | - | - | ~~-~~P |
| Municipal Pump Stations and Well Sites | P | P | P | P | P | P | P | P | P | S | P |
| Park and Ride Facilities | - | - | - | - | - | - | - | ~~S~~ P | - | - | P |
| Power Generation and Distribution (electric and gas) Facilities | - | S | S | S | S | P | P | P | - | - | ~~-~~P |
| Public Works Facilities | - | - | - | - | - | P | P | P | - | - | ~~-~~P |
| Passenger Transit or Rail Stations | P | P | P | P | P | ~~S~~ P | P | P | - | - | P |
| Vertiports for VTOL and eVTOL aircraft[5] | - | P | P | - | P | P | P | P | - | - | P |
| Solid Waste Transfer Stations | - | - | - | - | - | - | S | S | - | - | ~~-~~P |
| Wastewater Treatment Facilities | - | - | - | - | - | - | - | S | - | - | ~~-~~P |
| Water Supply Plants | - | - | - | - | - | - | - | S | - | - | P |

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|---|---|---|---|---|---|---|---|---|---|---|---|
| Wireless Communication Facilities (L) | L | L | L | L | L | L | L | L | L | L | L |
| **Vehicle Sales, Rental, Service, and Repair** | | | | | | | | | | | |
| Automotive, Recreational Vehicle, and Boat Dealers | - | S | P | - | - | P | - | - | - | - | P |
| Car Washes | - | S | P | - | - | - | - | - | - | - | P |
| Commercial & Industrial Machinery & Equipment Rental and Leasing | - | S | P | - | - | P | P | - | - | - | P |
| Convenience Stores with Fueling Facilities (L) | P [3] | P | P | - | - | - | - | - | - | - | P |
| Motor Vehicle Towing Services | - | - | S | - | - | P | P | - | - | - | P |
| Motorcycle Dealers | - | P | P | - | - | P | - | - | - | - | P |
| Quick Lubrication or Tire Replacement Shop | - | P | P | - | - | P | - | - | - | - | P |
| Service Stations | P | P | P | - | - | P | - | - | - | - | P |
| Taxi and Limousine Services | P | P | P | - | - | - | - | - | - | - | P |
| Vehicle Rental/Leasing | - | S | P | - | - | P | - | - | - | - | P |
| Vehicle Repair | - | S | P | - | - | P | - | - | - | - | P |
| **Warehousing** | | | | | | | | | | | |
| Miniwarehouses, Office Warehouses and Self-Storage | - | S | P | - | - | P | - | - | - | - | P |
| Warehouse/Distribution Facilities (~~>~~≥50,000 sq ft) | - | - | S | - | - | ~~S~~ P | P | - | - | - | ~~-~~ P |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Warehouse/Distribution Facilities (<50,000 sq ft) | - | S | P | - | - | P | ~~S~~ P | - | - | - | P |

## Footnotes for Table 3-4:

[1] Only if use is specifically mentioned within the MPD Development Agreement.

[2] A medical marijuana treatment center dispensing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school. F.S. § 381.986 .

[3] If subject property is within 500 feet of any residential property, a special exception for the use is required in accordance with Section 2.07—Special Exceptions.

[4] New developments pursuant to the Live Local Act shall be authorized in accordance with Section ~~34~~.~~06~~23, until the sunset of the Live Local Act on October 1, 2033, or as amended. Live Local Act developments shall be considered conforming after the sunset of the Act, as long as they maintain their affordability compliance as outlined in Section ~~34~~.~~06~~23.

[5] Vertical Takeoff and Landing (VTOL) and Electronic Vertical Takeoff and Landing (eVTOL) aircraft takeoff and landing sites are known as vertiports. The locational siting and design of vertiports are subject to meeting requirements established by FDOT and the FAA, as amended. The operations for said aircraft shall meet any adopted FDOT or FAA regulations, as amended.

[6] Data Centers require a super-majority vote of the City Council pursuant to Section 3.01.06. In the event that the City Council approves a Data Center, it shall require a closed-loop cooling system, be limited to a zoning district of IND-1 or IND-2, and subject to meeting the Industrial Use Performance Standards of Section 4.14.02.

3.03.03. *Nonresidential and Mixed Use Districts—Dimensional Standards.* The following table contains the dimensional standards for the various uses allowed in each nonresidential and mixed use district. The following subsections contain additional standards for the various nonresidential mixed use districts.

*Table 3-5. Nonresidential and Mixed Use Zoning Districts—Dimensional Standards*

| Zoning District Standard | COM-1 | COM-2 | COM-3 | OFC-1 | OFC-2 | PSP | IND-1 | IND-2 | P&G | PRS | MPD |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Minimum Lot Size | 20,000 sq. ft. | 20,000 sq. ft. | 30,000 sq. ft. | 15,000 sq. ft. | 20,000 sq. ft. | 20,000 sq. ft. | 20,000 sq. ft. | 1 acre | N/A | N/A | N/A |
| Minimum Lot Width [1] | 100' | 100' | 100' | 100' | 100' | 100' | 100' | 150' | N/A | N/A | N/A |
| Maximum Impervious Surface Ratio (ISR) | 0.70 | 0.70 | 0.70 | 0.70 | 0.70 | 0.70 | 0.70 | 0.65 | 0.20 | 0.05 | N/A [2] |
| Maximum Floor Area Ratio (FAR) | 0.30 [3] | 0.40 | 0.50 | 0.40 | 0.40 | 0.30 | 0.35 | 0.~~45~~ 35 | 0.10 | N/A | ~~NA~~ 0.55 |
| Maximum Building Height [4] | 50' | 100' | 75' | 75' | 100' | 100' | 65' | 65' | 35' | 35' | 100' |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Interior Side and Rear Setbacks [5] | 10' | 10' [6] | 10' [6] | 10' | 10' | 10' | 10' | 15' | 5' | 5' | N/A |
| **Minimum Building Setbacks from Streets:** | | | | | | | | | | | |
| Arterial/Collector Road [7] | 25' | 25' | 25' | 25' | 25' | 25' | 25' | 35' | 35' | 35' | N/A |
| Local Road | 20' | 20' | 20' | 20' | 20' | 20' | 25' | 35' | 10' | 10' | N/A |

**Footnotes for Table 3-5:**

[1] In no event shall the lot frontage on a street or access easement be less than 20 feet.

[2] See Subsection 3.03.04 for open space requirements.

[3] The gross floor area of a neighborhood shopping center shall not exceed 50,000 square feet.

[4] See Subsection 3.04.04 for height restrictions within the Palm Coast Parkway Overlay Zone. Additional height is permitted for appurtenances in the IND-2 District, as required by federal and state regulatory agencies. See Chapter 13 for additional restrictions on building height that may be applicable.

[5] See Section 3.05 for setback determinations and setback requirements for multistory developments adjacent to residential zoning districts and wireless communication facilities and equipment compounds. Fifteen percent wider width required for corner lots. See Chapter 9 for subdivision design standards. In no event shall lot frontage on a street or access easement be less than 20 feet. Minimum setback requirement is 25 feet when abutting the SFR, DPX, EST, AGR, PRS, and P&G Districts.

[6] A zero-foot interior side setback is permitted for a large-scale retail center with an approved master plan.

[7] Building abutting any specific arterial or collector road listed in Table 11-5 of Chapter 11 require a 35-foot setback to accommodate the landscape buffer.

3.03.04. *Master Planned Development (MPD) Zoning District Development Standards.* Requesting a rezoning to the Master Planned Development District is a voluntary process commenced by an applicant proposing a master plan for a unique, individually planned development which would not otherwise be permitted in any of the zoning districts established by this chapter. An application for rezoning to a Master Planned Development District shall show that the planned development will produce a functional, enduring, and desirable environment, with no significant adverse impacts to adjacent properties.

A. *Purpose.* The purpose of the Master Planned Development District is to provide opportunities for innovative planning and design. Although greater flexibility is given within this district, procedures are established in this subsection to ensure that master planned developments are consistent with sound and generally accepted land development practices and that added benefit is accrued to the community. Approval of a Master Planned Development Agreement will be based on the finding that the submittal results in one or more of the following:

1. A recognizable and material benefit to the ultimate users of the project and to the community, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the master planned development zoning approval; and/or

2. Long-term protection and preservation of natural resources and natural features of a significant quantity and/or quality, where such benefit would otherwise be unfeasible or unlikely to be achieved without application of the master planned development zoning approval.

B. *Intent.* The intent of the Master Planned Development District is to:

1. Encourage efficient land development through the use of innovative land use planning.
2. Encourage a more compatible and harmonious development of contiguous lands.
3. Permit the combining and coordinating of architectural styles, building forms, and building relationships within a development.
4. Provide for the planning, review, and approval of one or a combination of residential, commercial, industrial, recreational, and public land uses and structures that results in an organized development.
5. Minimize infrastructure costs through a more efficient arrangement of structures, utilities, on-site circulation, ingress, and egress than is permitted under conventional zoning and subdivision regulations.
6. Preserve to the greatest extent feasible environmental assets and natural amenities such as scenic and functional open space areas.
7. Establish specific limitations and requirements in excess of those included in other zoning districts, based on the unique characteristics of the individual site, where necessary for the protection of the public health, safety, or welfare, or for the protection or preservation of lands either internal or external to the planned development.

C. *General requirements.*

1. *Comprehensive plan consistency.* The master planned development shall be consistent with the Comprehensive Plan. A Master Planned Development District is allowed within all Comprehensive Plan Future Land Use Map categories.
2. *Other ordinances.* All building and housing codes of the City are applicable to the Master Planned Development District; however, requirements for dimensional standards, parking, open space, and other land use regulations established in the master planned development plan may differ from those specific to the zoning district in which the development is located to achieve a higher level of quality. Special exceptions and variances are, therefore, not applicable to master planned development plans.

D. *Permitted uses, densities, and intensities.* All principal and accessory uses permitted within the Master Planned Development District, as provided for in Tables 3-2 and 3-4, noting that these uses are not meant to be exclusive, uses not listed in this chapter pursuant to Section 3.01.07 may be requested. All uses requested within a Master Planned Development District are subject to approval by the City Council based on consistency with the Comprehensive Plan and compatibility with the surrounding areas. The maximum gross residential density or nonresidential intensity permitted within any proposed master planned development shall not exceed the density or intensity permitted within the Comprehensive Plan Future Land Use Map category where the particular master planned development is proposed.

E. *Development standards.* All development standards including, but not limited to, lot sizes, setbacks, lot coverage, building height, lighting, architecture, landscaping, recreation, and open space shall be specified in the Master Planned Development agreement.

F. *Compatibility standards.* In order to ensure compatibility of the master planned development the following shall apply whenever the proposed development abuts a single-family detached residentially zoned development:

1. Residential lot arrangement at the master planned development property line(s), including width, depth, and area shall be consistent with the average width, depth, and area of the abutting existing neighborhood with a variation of no more than 25 percent less than the average;
2. Residential and nonresidential building height adjacent to residential zoning districts shall comply with the requirements of Chapter 13.
3. Nonresidential delivery and loading areas, dumpsters, and mechanical equipment shall be located away from property lines abutting residential areas.
4. Development shall be generally consistent with the Architectural Design Regulations contained in Chapter 13.

G. *Perimeter buffer requirement.* Whenever a master planned development abuts existing developments with lower density or intensity land uses, the City Council may impose perimeter buffer requirements in excess of the minimum requirements established in Chapter 11 in order to protect the privacy of existing adjoining uses including, but not limited to:

1. Structures, buildings, and streets located at the perimeter of the development shall be permanently screened in a manner that sufficiently protects the privacy and amenities of the adjacent existing uses.
2. Increased setbacks from the perimeter line may be imposed to protect privacy of adjacent existing uses.

H. *Vehicular and pedestrian access and parking.* The master planned development shall be designed in a way that integrates pedestrian, bicycle, and vehicular traffic circulation systems into the surrounding community. The development shall provide for safe and convenient access to public uses, common areas, and other community services, facilities, and activities located both within the proposed development and beyond its boundaries.

1. All uses within the master planned development shall have access to a public street either directly or indirectly via a private approach road, pedestrian way, court, or other area dedicated by a common easement guaranteeing access. Permitted uses are not necessarily required to front on a dedicated road. The City shall be allowed access on privately owned roadways, easements, and common open space to ensure the police and fire protection of the area, to meet emergency needs, to conduct City services and services of exclusive franchises, and to generally ensure the health and safety of the residents of the master planned development.
2. Vehicular access from individual lots or dwelling units onto arterial or collector streets within or adjacent to the development is discouraged.
3. Adequate parking and loading shall be provided in general conformance with regulations established in Chapter 5. However, the minimum number of parking spaces required may be modified, based on evidence that other standards would be more reasonable. A decision to reduce the number of parking spaces shall be based on technical information provided by a qualified consultant that verifies the reduction will not impair the functioning of the development or adjacent developments.

I. *Open space requirement.* A master planned development shall give priority to preservation and interconnection of wildlife corridors and wildlife preservation areas, including below grade crossings, if necessary. Open space should, to the maximum extent possible, preserve the most important environmental features on the site in their natural state or restrict these areas for passive outdoor recreational purposes only.

Master planned developments within a Development of Regional Impact are exempt from the open space requirements of this section, provided that the master planned development must comply and be consistent with the development of regional impact development order.

1. *Minimum required open space.* A master planned development shall be required to provide open space totaling 40 percent of its gross area. For a development with residential uses, at least 25 percent of the total required open space shall be common areas accessible to the public. Additional open space shall be, where possible, located and designed to achieve the following:
   a. Provide areas for informal recreation and pathways;
   b. Connect to adjacent open space, parks, bike paths, or pedestrian paths;
   c. Provide natural greenbelts along roadways; and
   d. Buffer adjacent land uses where appropriate.
2. *Open space requirement flexibility.* As an alternative to meeting the open space percentage noted above, an applicant may propose alternative solutions such as, but not limited to, green building principles, land donation, or other mechanisms that would justify the lower percentage.
3. *Permitted uses of open space.* For the purpose of this section, open space does not equate to pervious areas. Therefore, the following uses as permitted within the required open space area:
   a. Pervious areas including, but not limited to, conservation of natural, archeological, and historical resources; and woodlands, wetlands, ponds, lakes, wildlife corridors, landscape, and similar environmental or conservation-oriented areas.
   b. Walking or bicycling trails or paths paved with pervious or semipervious materials.
   c. Passive recreation areas such as playgrounds which meet the following standards:
      (1) Such areas do not exceed ten percent of the required open space; and
      (2) Such areas are located outside any conservation areas that include wetlands that qualify as moderate and optimal in Chapter 10.
   d. Easements for drainage and underground utility lines.
   e. Stormwater retention and detention ponds.
   f. Golf courses, disc golf, or similar open field based recreational areas.
4. *Prohibited uses of open space.*
   a. Roads and parking lots.
   b. Buildings, structures, and other impervious surfaces, except as necessary for residential walkways connecting to public sidewalks.
5. *Common open space and improvements.* All common open space, as well as public and recreation facilities shall be specifically included in the development plan and Master Planned Development Agreement.
   a. Common improvements associated with residential uses, including private or public parks, pools, recreation centers, or other facilities shall be constructed in conjunction with residential dwellings. Such facilities shall be completed at a rate equal to that which is capable of serving the number of completed residential units in the master planned development. Therefore, recreational facilities must be permitted and under construction prior to the issuance of the 25th permit ~~no more than 40 percent~~ of the units for which the improvements are intended. ~~shall receive building permits until the improvements are completed.~~

b. Public improvements must be backed by performance bonds issued to the City in a form and quantity acceptable to the Land Use Administrator. The Land Use Administrator must approve the bond prior to the issuance of the first residential permit.

c. Improvements may be completed in phases as long as the capacity of the improvement is capable of serving the associated phase of development.

6. *Conveyance and preservation of open space.* Open space shall be preserved in perpetuity based upon the type of space and the user, as follows:

a. Common open space, proposed for use of the master planned development owners and residents, shall be conveyed to a homeowners association or to a nonprofit organization whose principal purpose is the conservation of open space, to a corporation or trust owned or to be owned by the owners of the lots or dwelling units within the residential cluster development, or to owners of shares within a cooperative development. If such a corporation or trust is used, ownership shall pass with the conveyances of the lots or dwelling units. The conveyance shall be recommended to the City Council by the Planning and Land Development Regulation Board and shall be in a form approved by the City Attorney.

b. Open space associated with natural features including, but not limited to, wetlands and other environmentally sensitive areas shall be preserved in perpetuity via a conservation easement on a form approved by the City that shall be recorded with the Flagler County Clerk.

7. *Maintenance of common areas, stormwater conveyance system, and open space.* Homeowners or Property Owners Association Bylaws shall be required for a master planned development project and shall identify the party(ies) or person(s) responsible for maintaining the common areas, stormwater conveyance system, and open space, including multiuse trails open to the public.

J. *Existing golf course communities.* Existing golf courses communities located within the former Golf Course Community (GCC) District seeking to add residential units must comply with the standards established for the Master Planned Development District. In addition, the development shall utilize the following guidelines in order to minimize adverse impacts on any abutting single-family residentially zoned areas.

1. Existing direct golf course views from the rear yards of all existing, platted lots located within any residentially zoned districts directly abutting the site shall be maintained. Peripheral (i.e. side) views from these existing rear yards may be impacted by new development and new development may be visible from existing development.

2. Existing golf course views from existing platted lots located within any residentially zoned area located across a right-of-way or a water body from the site shall be maintained to the maximum extent practical.

3. Multifamily uses shall be surrounded by fairways, clubhouse, and/or other golf course facilities to buffer single-family areas within the same development. The multifamily uses shall not be located within 150 feet from any existing, platted lots located within a residentially zoned area.

K. *Master planned development review and approval process.* The application for a master planned development and the rezoning, along with the required Master Planned Development Agreement, shall be submitted and approved in conformance with Chapter 2.

(Ord. No. 2009-26, §§ 11, 12, 12-15-09; Ord. No. 2012-3, § 2(Exh. 1), 5-1-12; Ord. No. 2015-08 , § 2, 7-21-15; Ord. No. 2015-9 , §§ 2, 4, 8-4-15; Ord. No. 2017-19 , § 3, 10-17-17; Ord. No. 2018-02 , § 4, 2-6-18; Ord. No. 2020-09 , § 2, 8-18-20)

Sec. 3.04. - Overlay Zones.

3.04.01. *Purpose and intent.* The intent of this section is to establish certain overlay zones within which special development restrictions are imposed. The land uses permitted within the underlying zoning districts remain undisturbed by the creation of the overlay zone.

3.04.02. *Wetland ~~overlay~~ Probability zone.*

A. *Purpose.* The purpose of the wetland ~~overlay~~ probability zone is to designate areas within the City containing significant wetland areas. The wetland probability zone is synonymous with the previous name wetland overlay zone.

B. *Delineation of wetland ~~overlay~~ probability zone boundaries.* The wetland ~~overlay~~ probability zone boundaries delineate areas in which aerial maps, the Future Land Use Map, or other sources of conceptual wetland mapping information indicate that the subject parcel or lot appears to meet at least one of the following conditions:

1. More than 50 percent of the land area within the parcel or lot contains wetlands as defined and protected under Chapter 10.
2. The parcel or lot contains wetlands that are part of a protected environmental or resource corridor or an integrated, non-isolated wetland system.
3. The location of the wetlands on the parcel or lot is situated in such a manner that the property's future development may be substantially restricted.

C. *Restrictions to future development within a wetland ~~overlay~~ probability zone.* Although the wetland ~~overlay~~ probability zone designation is an indication that a property's future development may be restricted due to the presence of wetlands, the designation itself does not entail any specific development regulations. Upon determination of the jurisdictional wetlands boundary by the St. Johns River Water Management District or other government designated entities and the application of Chapter 10, the parcel or lot is permitted to develop in accordance with the prescribed standards of its zoning district.

D. *Preserved wetland areas.* Preserved wetland areas may be used on a parcel or lot to meet setback requirements, to provide credit toward meeting landscape requirements, and to provide pervious area. Twenty-five percent of preserved wetland areas may count in the gross acreage used to calculate residential density in accordance with Section 3.05.

E. *Wetlands impacts.* The wetland ~~overlay~~ probability zone designation neither precludes impacts to wetlands nor does it provide justification for wetland impacts. Chapter 10 contains the City's regulations regarding wetland impacts.

3.04.03. *Gateway Overlay Zone.*

A. *Purpose.* The purpose of the gateway overlay zone is to establish provisions that enable development of a unique hub located within the City's State Road 100 Community Redevelopment Area. This shall be accomplished by implementation of land development criteria promoting redevelopment that provides consistent landscape and architectural standards compatible with the approved Town Center Development of Regional Impact. At the same time, the City recognizes that there are existing uses, both nonresidential and residential, within the gateway overlay zone that need to remain as viable properties during the interim period before redevelopment can occur. The gateway overlay zone is intended to:

1. Ensure the roadways develop into a cohesive, scenic gateway;
2. Provide uniform design standards to establish high quality development;
3. Prevent disjointed, disorganized development caused by unplanned and uncoordinated uses, buildings, and structures; and

4. Maintain and enhance property values.

B. *Description of district.* The boundary of the gateway overlay zone is delineated on the Official Zoning Map and is generally described as being bounded on the west by Bulldog Drive, on the north by the northerly property lines of the Midway Park First Addition Subdivision and southeasterly to the northern lot lines of Whispering Pines Subdivision; on the east by the east lot lines of Whispering Pines Subdivision; and on the south by the northerly right-of-way line of State Road 100.

C. *Site planning guidelines.* Site design shall specifically address the creation of an attractive, safe, and functional urban environment. The requirements contained in Chapter 13 relating to general architectural design shall apply to lands within this overlay zone as well as the following guidelines, which are unique to this zone.

1. *Building design, layout, and orientation.*

a. Buildings shall be organized to create or strengthen view corridors to significant natural or man-made features.

b. Building siting and orientation shall create a healthier pedestrian environment designed within the existing urban framework and linked to outdoor spaces including parks, plazas, and walkways.

c. When two or more buildings are proposed on a single lot of record, the primary building shall be oriented to face the public right-of-way.

d. Buildings shall be oriented to maximize pedestrian access and views of significant natural or man-made features, even if there is a primary façade on the public right-of-way.

e. Building orientation and massing should relate to nearby buildings and to the urban context, with off-street parking areas located to the sides and rear of the site.

f. In order to provide a unified design with the main structure and enhance the visual impact of outparcels on a site, all exterior façades of the outparcel buildings shall be considered primary façades and shall employ architectural and landscape design treatments similar to or compatible with the primary building and anchor tenant.

g. Secondary building entrances shall be considered when parking is located to the rear of the building to provide direct service and customer access to the store from parking areas as well as improve circulation between the parking lots and the street. Architectural embellishments, awnings, landscaping, and directional signage shall be used to mark the secondary entrance, and the design and building materials of the rear of the building shall be consistent with the front facade.

h. Corporate building design that is typically read as signage or branding is discouraged.

2. *Vehicular and pedestrian access and parking.*

a. Vehicular connection between the buildings, including the main structures and outparcels, is required to provide for safe and convenient vehicular movement within the site.

b. Interconnection of pedestrian walkways with the main structure and adjacent outparcels is required. Pedestrian walkways that are incorporated into parking areas or roadways shall be distinguished as such through the use of different materials.

c. The site plan shall be integrated with adjacent parcels to provide a logical, safe, and harmonious system of roadways and interconnecting bike paths and sidewalks.

d. Parking areas shall be designed to avoid the appearance of a large expanse of pavement, and shall be conducive to safe pedestrian access and circulation.

e. Joint or shared parking and cross-access are encouraged to create physical and visual linkages and to create more developable areas for commercial, institutional, and amenity uses.

3. *Maintenance and service areas.*

a. All maintenance and service areas shall be located in the rear of the buildings or, if a rear location is not possible, such areas shall be screened from public view.

b. Efficient access shall be provided to service drops and maintenance or trash collection areas.

D. *Building design.*

1. Building height shall not exceed 45 feet.

2. Buildings shall have architectural features and patterns that provide visual interest from the perspective of pedestrians and motorists. Buildings shall include substantial variation in mass, such as articulation of vertical and horizontal planes, particularly in primary building facades.

3. Building facades shall be designed to avoid visual monotony. Landscaping may be employed to enhance the architectural features, but shall not be used in lieu of the following:

a. Facades shall not exceed 30 horizontal feet and ten vertical feet without incorporation of two of the following elements:

(1) A change in plane, such as an offset, reveal, or projecting rib. Such plane projections or recesses may include, but are not limited to, columns, planters, arches, and voids and shall be a minimum of 12 inches in depth, applied to at least 20 percent of the building length;

(2) Control and expansion joints constitute a blank wall, unless used in a decorative pattern with varied materials or textures and spaced a maximum of ten feet on center. Relief and reveal depth shall be a minimum of three-quarters of an inch;

(3) Architectural details, such as raised bands and cornices;

(4) Awnings; or

(5) Change in color and/or texture (banding alone does not constitute a change in color or texture).

b. Facades that extend for more than 100 feet in length shall incorporate, in addition to two of the above requirements, at least one of the following elements:

(1) A change in plane, such as an offset, reveal, or projection rib a minimum of 12 inches in depth, with a maximum spacing of 100 feet between features;

(2) Prominent public entrance defined by substantive architectural features; or

(3) Change in building material, such as split face block.

4. Facade treatments for primary and secondary facades shall include the following:

a. Primary facades shall have at least two of the following elements for at least 60 percent of the width of the facade:

(1) Public entrances;

(2) Arcades or other roof treatment such as shutters or secondary roofs to provide pedestrian shade and facade interest;

(3) Windows;

(4) Awnings, associated with windows or doors; or

(5) Foundation plantings adjacent to the building with a minimum width of five feet.

b. Secondary facades shall incorporate two of the following design elements for primary facades:

(1) The first floor of all buildings, including structured parking, shall be designed to encourage pedestrian-scale activity;

(2) Overhangs/awnings shall be no less than five feet deep to protect pedestrians from inclement weather;

(3) The highest point of a first floor awning on a multistory building shall not be higher than the midpoint between the top of the first story window and the second story windowsill;

(4) Accessory structures including, but not limited to, carwash buildings and gas station/convenience store canopies, shall have the same architectural detail, design elements, and roof design as the primary structure; or

(5) All additions, alterations, and accessory buildings shall be compatible with the principal structure in design and materials.

5. Fenestration details such as windows, awnings, covered arcades, sills, shutters, relieves, trims, pilasters, accent tiles, quoins, reveals, cornices, arches, and decorative vents shall be provided along a minimum of 60 percent of the façade length of the front elevation. If a side or rear elevation is contiguous to a public street or residential use, 40 percent of the elevation must have fenestration details.

6. Entrances.

a. Primary customer entrances shall face a public street. Buildings larger than 30,000 square feet located on corner lots shall provide customer entrances on both streets, or a corner entrance. Additional entrances are encouraged facing parking lots, plazas, lake fronts, and adjacent buildings. When a property is adjacent to multiple public streets, the street that carries the greatest volume of traffic is the preferred orientation for the main entrance.

b. A primary and a secondary entry feature design element listed below shall be provided at each customer entrance:

(1) *Primary.*

• Canopies, porte-cochere, or porticos.

• Wall recess or projection a minimum of 12 inches in depth.

• Covered arcades, a minimum of eight feet clear in width.

• Peaked roof forms.

• Arches, columns, or pilasters.

• Landscape planters a minimum width of five feet.

(2) *Secondary.*

• Overhangs, cornices, and eaves.

• Decorative moldings or trims around windows and doors.

• Covered public outdoor patio or plaza incorporated with entry area which is not part of a tenant space.

• Special pavers, bricks, decorative concrete, or similar marked pavement treatment.

• Architectural details, such as tile work or moldings.

• Landscape planters a minimum width of five feet.

7. *Roofs.*

a. Buildings shall have a recognizable top consisting of but not limited to: cornice treatments, roof overhangs with brackets, steeped parapets, and richly textured materials. Color bands, typically used for advertising, are prohibited.

b. A primary roof is the portion of the roof that covers the main area of the building. A secondary roof is the portion of the roof covering smaller extensions of the structure. A primary and a secondary roof design element, selected from those listed below, shall be incorporated into the design:

(1) *Primary.*

• Articulated parapet—The highest point of the parapet shall not at any point exceed 15 percent of the height of the supporting wall.

• Pitched roof with minimum 12 inches overhanging eaves.

• Three or more roof plane breaks or slopes per facade elevation.

• Any combination of the above.

(2) *Secondary.*

• Decorative roof details, such as dormers, cupolas, rafter tails, balconies, terraces, or exposed beams.

• Three-dimensional cornices with decorative moldings.

• Pediments, porticos, architectural features at entryways, or decorative towers.

E. *Pedestrian amenities.*

1. Where development abuts a collector or arterial road, walkways a minimum of five feet in width shall be provided from each adjacent perimeter public sidewalk to all customer entrances. Where development abuts a local road, walkways a minimum of four feet in width shall be provided from each adjacent perimeter public sidewalk to all customer entrances. All such walkways shall include the following:

a. One native canopy tree for each 30 linear feet with a maximum spacing of 50 feet between trees; trees may be massed to enhance views, create public spaces or otherwise improve the overall appearance of the project; and

b. A bench every 200 feet between the public right-of-way and the front customer entrance.

2. Walkways traversing vehicular use areas shall be accented with special pavers, bricks, decorative concrete, stamped concrete, or similar decorative pavement treatment consistent with the Town Center Development of Regional Impact theme.

3. Bicycle parking/storage shall be provided in accordance with Chapter 5.

F. *Service, utility, display, and storage areas.* In addition to the service, utility, display, and storage requirements of Chapter 13, developments within this district shall also meet the following requirements:

1. All utilities shall be located underground;
2. Outdoor storage of materials is prohibited;
3. Outdoor display of merchandise is permissible if the merchandise is related to the business occurring on the property, does not affect pedestrian and vehicular circulation, and can be stored either inside the building or in an area screened from public view when the business is not open; and
4. Vending machines located outside of buildings or structures are prohibited.

G. *Site lighting.*

1. Site lighting shall be provided along all streets, sidewalks, parking lots, steps/ramps, plazas, and other areas of high pedestrian use.
2. Light fixtures shall be spaced in a manner to provide soft and uniform illumination for a given area or corridor.
3. Light fixtures shall be consistent with Town Center Development of Regional Impact theme, style, materials, scale, proportion, color, and location.
4. Building lighting shall consist of light fixtures mounted on or near the building.
5. Areas to be lit shall have a system of hierarchy or priority to establish which elements or areas will have the most emphasis in regard to lighting intensity and color. High design areas such as building facades, entries, and walkways shall receive the highest priority.
6. Landscape lighting shall be of low-level illumination with tones and colors that enhance the look of the plant material. Fixtures and light source shall be concealed.
7. Light pole maximum heights: parking lots and access drives—30 feet; pedestrian walkways, terraces, plazas—20 feet.
8. Illumination shall be limited to the site and shall not cause glare or visual disturbance to adjacent properties.
9. Flood lighting, beacon, or search lights, except as limited by state of Florida or federal law, or drop lens fixtures are prohibited.
10. Animated lighting is prohibited.
11. See Chapter 9 for further site lighting criteria.

H. *Landscape standards.* The requirements contained in Chapter 11 shall apply to lands within the gateway overlay zone. Quercus virginiana (live oak) shall be used as the street tree where properties abut State Road 100.

I. *Signage.* The provisions of Chapter 12 shall regulate all signs in the gateway overlay zone; however, off-site signs are prohibited.

3.04.04. *Palm Coast Parkway Overlay Zone.*

A. *Purpose.* The purpose of the Palm Coast Parkway overlay zone is to impose additional standards for new construction of nonresidential and multifamily development within its boundaries. The Palm Coast Parkway overlay zone is intended to:

1. Provide for additional access management controls to ensure that Palm Coast Parkway develops into an attractive functional roadway corridor meeting the needs of vehicles and pedestrians; and

2. Prevent disjointed, disorganized development caused by unplanned and uncoordinated building layout and design.

B. *Description of district.* The boundary of the Palm Coast Parkway Overlay Zone is delineated on the Official Zoning Map and is generally described as the corridor along Palm Coast Parkway between U.S. Highway 1 east to the Hammock Dunes Toll Bridge.

C. *Site plan submittal requirements.* Development within the overlay zone shall be subject to review and approval as outlined in Chapter 2.

D. *Site planning guidelines.* Site design shall specifically address the creation of an attractive, safe, and functional urban corridor. The requirements contained in Chapter 13 relating to general architectural design shall apply to lands within this overlay zone.

1. Building design, layout, and orientation.

2. Vehicular and pedestrian access and parking.

3. Mechanical equipment, utilities, and storage areas.

E. *Building height.* The maximum height permitted within the Palm Coast Parkway overlay zone is 50 feet, inclusive of all appurtenances, except for wireless telecommunication facilities.

F. *Landscape standards.* The requirements contained in Chapter 11 shall apply to lands within this overlay zone. Quercus virginiana (live oak) shall be used as the street tree.

G. *Signage.* The provisions of Chapter 12 shall regulate all signs in the Palm Coast Parkway overlay zone; however, off-site signs are prohibited.

3.04.05. *Airport Area Economic Development Incentive.*

A. *Purpose.* The Palm Coast/Flagler County Airport Area Master Plan proposes specific areas for targeted economic development called Economic Development Areas (EDA). The Airport Area Economic Development Incentive specifies allowable uses and development standards for each EDA. These uses and standards are intended to encourage the development of targeted businesses and other industries at specific locations. The Airport Area Economic Development Incentive can be applied to three distinct areas, which are expected to develop with different intensities and development patterns: EDA-1, EDA-2, and EDA-3 (see Exhibit A to Ord. No. 2009-17).

In order to encourage the desired development to occur within the EDAs specific location-based incentives have been developed. Property-owners (agents) that seek development approval through the Master Planned Development (MPD) rezone process may apply for the location-based development incentives. In addition to the location-based incentives, MPD projects located within the EDAs may also apply for performance-based bonuses. This section (1) introduces the EDA areas and the associated location-based incentives, (2) outlines the processes to access the location-based incentives and (3) introduces performance-based development bonuses that may be available to qualifying development.

Portions of EDA Areas 1, 2, 3 are currently outside City boundaries. Airport Opportunity Areas A and C are currently outside the City boundaries.

B. *Economic development areas.*

EDA #1 is located adjacent to the southeast side of the airport between the airport's boundary and Seminole Woods Boulevard. EDA #1 is intended to provide for industrial and office development that is compatible with the continuing operation and expansion of the Flagler County Airport.

EDA #2 is located on the north side of Seminole Woods Boulevard. EDA #2 is intended to provide for compact mixed-use development. This area shall be developed as a neighborhood

center characterized by employment and retail opportunities. Development shall emphasize pedestrian connectivity to the surrounding residential areas and established neighborhoods.

EDA #3 is located between I-95 and Old Kings Highway. EDA #3 is intended to attract larger corporate office development and foster the development of a campus-like corporate park or an industrial park. Potential users include corporate offices, hotels, higher-density residential, and support uses that benefit from the close proximity to, and with high visibility from, Interstate 95.

C. *Opportunity Areas A and C.*

Opportunity Area A is located on SR 100 north of the airport and across from Palm Coast's State Road 100 Community Redevelopment Area and the Gateway Overlay Zone. This area is located within Flagler County, is approximately 30 acres, and has commercial zoning. This site was identified as Opportunity Area A in the 2009 Palm Coast/Flagler County Airport Master.

Opportunity Area C is located on SR 100 north of the airport and across from Palm Coast's State Road 100 Community Redevelopment Area and the Gateway Overlay Zone. This area is approximately 81 acres, located within Flagler County and has PUD zoning. This site was identified as Opportunity Area C in the 2009 Palm Coast/Flagler County Airport Master Plan.

D. *Applicability.* The development incentives and development standards contained in this section shall apply to all new development and redevelopment of sites within the EDAs and Opportunity Areas A and C. The incentives and standards are intended to encourage targeted industry development within the EDAs to promote superior site and building design, and improve the functional arrangement of buildings and site components, such as parking, utilities, loading, and service areas and promote a shared vision and compatible built environment as it relates to the SR 100 corridor, which includes the City of Palm Coast's Community Revitalization Area (CRA), Gateway Overlay Zone and Towncenter Master Planned Development (MPD) related-development on the northern side of SR 100.

E. *Approval process.* Owners of property within the EDAs have the option of developing under two scenarios as follows:

1. *Current zoning based (entitlement) development.* Applicants have the option of developing their properties subject to the zoning classification of the property. Properties developed based on their current zoning are not eligible for any incentives.
2. *Rezone to Master Planned Development (MPD).* Rezone the property to MPD which will qualify the property for incentives as follows:
    a. Location-based incentives detailed in Subsection E.
    b. Performance-based incentives that are outlined in Subsection F.

F. *Location-based development incentives.* In order to encourage economic development and job creation at the Economic Development Areas and implement the economic development objectives of the Palm Coast/Flagler County Airport Area Master Plan, the following location-based incentives may be utilized by development reviewed through the MPD process. Note that incentives may restrict building height and/or open space in certain areas. The existing zoning development thresholds are shown to illustrate the Overlay areas' incentives.

*Economic Development Area 1*

| Regulations | Current Zoning Thresholds | Incentives* |
|---|---|---|

| | City of Palm Coast | | | Flagler County | |
|---|---|---|---|---|---|
| | PSP | COM-2 | IND-1 | IND-PUD | |
| **Open Space** | 30% | 30% | 30% | (1) | 30% |
| **Height** | 100' [2] | 100' [2] | 65' [2] | (1) [2] | 100' [2] |
| **FAR** | .30 | .40 | .35 | (1) | .50 |

(1) To be determined during the development agreement approval process.

(2) Must comply with the Airport Approach Hazard Overlay and FAR 77 requirements.

* Location-based incentives available only through development participating in MPD process.

*Economic Development Area 2*

| | Flagler County Current Zoning Thresholds | | | Incentives* | |
|---|---|---|---|---|---|
| **Regulations** | **AC** | **NRC PUD** | **PUD** | **Mixed Use and Non-Residential** | **Residential** |
| **Open Space** | 75% | (1) | (1) | 40% area wide | 40% area wide |
| **Height** | No Max. [2] | (1) [2] | (1) [2] | 75' [2] | 45' [2] |
| **Res. Density** | 1 unit/20 acres | 1 unit/acre | 1 unit/acre | 12 units/acre | 10 units/acre |
| **FAR** | N/A | (1) | (1) | .50 | N/A |
| **ISR** | .25 | (1) | (1) | .60 | N/A |

(1) To be determined during the development agreement approval process.

(2) Must comply with the Airport Approach Hazard Overlay and FAR 77 requirements.

* Location based incentives available only through development participating in MPD process.

*Economic Development Area 3*

| Regulations | Flagler County Current Zoning Thresholds AC | Incentives* |
|---|---|---|
| **Open Space** | 75% | 40% per site |
| **Height** | No Max. | 100' [1] |
| **Res. Density** | 1 unit/20 acres | Min. 8 to Max. 12 units/acre |
| **FAR** | N/A | .55 |
| **ISR** | .25 | .60 |

(1) To be determined during the development agreement approval process.

* Location based incentives available only through development participating in MPD process.

G. *Performance based development bonuses.* Performance-based development bonuses may be available for projects that are located within one of the EDAs and that are also utilizing the MPD approval process. These additional bonuses are meant to complement any financial or other incentives that may have been offered by the City to attract targeted developments to the economic development areas and do not exclude the use of additional incentives. These additional incentives shall be based on specific project design and/or satisfaction of other performance criteria as stipulated by the City through the use of a development agreement. Approval of the bonus, including terms and conditions shall be negotiated by the applicant with the City, on a case-by-case basis. Any potential incentives, developed during the negotiations with City, shall be detailed in an associated development agreement. Final approval of the development agreement and the potential use of incentives that may be utilized by the applicant will be at the discretion of the City Council.

1. *Non-residential intensity (floor area ratio-FAR) bonus.*

   a. Developments that incorporate the use of green building practices (as identified by the United States Green Building Council and/or the Florida Green Building Coalition

including but not limited to, green roofs, energy efficient windows, solar energy, reused or recycled materials, renewable materials, use of grey water, etc.) in the design and materials of a building, and can demonstrate a significant energy and water consumption reduction may receive a maximum increase of 0.25 FAR.

b. The use of shared parking helps reduce the amount of paved surface in the case of surface parking, or building mass in the case of structure parking. Therefore, mixed-use projects within the EDA overlay using the shared parking standards would be eligible for an increase of 0.25 FAR.

2. *Open space requirement reduction bonus.*

a. Stormwater management facilities are considered "open space" for the purpose of meeting the open space requirement. Combining such facilities with neighboring properties may decrease the need for buffers around ponds. Therefore, the use of shared or off-site stormwater management facilities for multiple developments may allow for a reduction in the open space requirement of the master plan development by up to five percent.

b. Developments within the EDA overlay may reduce the open space requirement by a maximum of five percent if the development incorporates the use of a permeable or semi-permeable surface for parking spaces. The amount of permeable/semi-permeable surface shall be no less than the proposed reduction in open space. In no case shall stormwater requirements be reduced. Stormwater management facilities shall meet all applicable City and St. Johns River Water Management District rules and regulations.

3. *Parking space requirement reduction bonus.* The City encourages development design and use concepts that provide transportation alternatives that may reduce the dependence on and the use of automobiles. The use of Transportation Demand Management (TDM) practices in the design and construction of development projects may qualify a project for a reduction in minimum parking space requirements by a maximum of ten percent. TDM practices and facilities include but are not limited to:

- Inclusion of employee drop-off and pick-up areas in the development;
- Inclusion of cab (taxi) stand areas in the development;
- Inclusion of on-site, employee service facilities such as, daycare facilities, cafeterias, etc., in the development;
- Inclusion in project design and development of improved connections to planned or existing bike or pedestrian paths to the facility;
- Provision of bicycle storage facilities (racks/lockers) and changing facilities for employees (locker rooms and showers); and
- Inclusion in project design and development of facilities to accommodate planned or existing mass transit (buses). This may include, but is not limited to, bus turnouts, bus shelters, bus lanes, and park and ride lots.

4. *Setback requirement reduction bonus.* The minimum required setbacks may be reduced by a maximum of five feet for the front setback and two feet for the rear and side setbacks if additional landscaping (must exceed 20 percent of the required plant material and provide a variety of species) is provided within the required buffer yards. Setback reductions are not

available for parcels local on the following roadways: Seminole Woods Boulevard, Belle Terre Boulevard, and Old King's Road.

5. *Green development LEED certification (fee refund).* The Leadership in Energy and Environmental Design (LEED) Green Building Rating System, developed by the U.S. Green Building Council (USGBC), provides a suite of standards for environmentally sustainable construction. The Florida Green Building Coalition (FGBC) also offers Green Building certification. If a completed project receives a LEED certification from the USGBC, the developer may request a refund up to 60 percent of the associated Rezoning Application Fee and Technical Site Plan Application Review Fee. The applicant shall provide the City acceptable documentation of the project receiving LEED certification from the USGBC. If a completed project receives a Green Building certification from the FGBC, or an equivalent certification (such as the National Association of Home Builders National Green Building Standards), the developer may request a refund up to 40 percent of the associated Rezoning Fees and Site Development Review Fees. The applicant shall provide the City acceptable documentation of the project receiving LEED certification and Green Building certification from the USGBC and the FGBC respectively, or documentation of an equivalent certification. The development agreement associated with the MPD project seeking this refund must contain language stating that the developer will be seeking said refunds upon completion of the project and after issuance of the certificate of occupancy.

   Specifically for Opportunity Areas A and C, state and federal wetland permitting standards shall be considered as acceptable documentation to verify compliance with the City's ULDC and Comprehensive Plan.

(Ord. No. 2009-17, § 3(Exh. A), 7-21-09; Ord. No. 2015-9 , § 2, 8-4-15; Ord. No. 2018-14 , § 3(Exh. A), 5-15-18)

Sec. 3.05. - Interpretations.

3.05.01. *Lot width and frontage.* Lot frontage shall be measured along the front property line, while lot width shall be measured along the front setback line.

3.05.02. *Building setbacks.* Building setbacks shall be measured from the property line or, if applicable, from the edge of a private street or the boundary line of an access easement located on the subject property to the wall of the building. The required building setbacks determine the building envelope. In no event shall a structure encroach within an easement, inclusive of eaves, unless specifically approved by the Land Use Administrator.

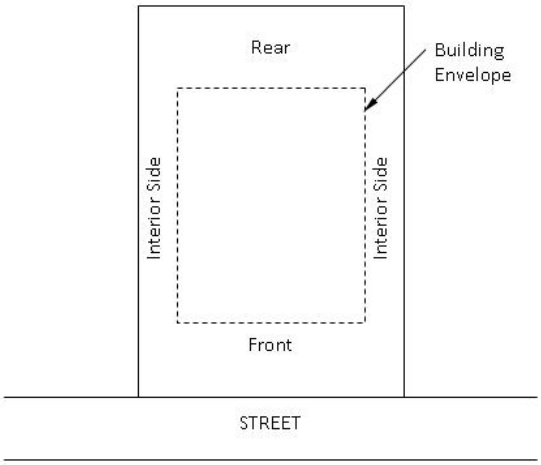
A. *Determining building setbacks.* Front, side, and rear yard setbacks shall be determined based on the following. In cases of uncertainty, the Land Use Administrator shall determine the setbacks based on the following guidelines:

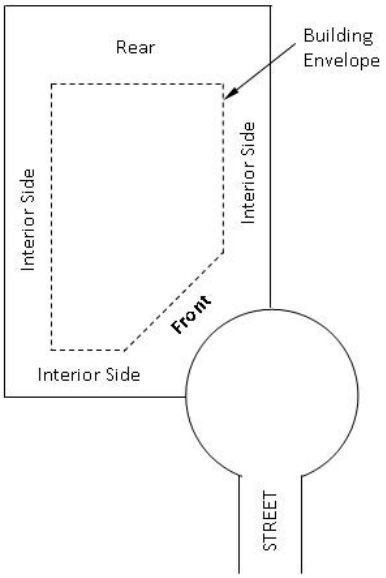
   1. The front yard setback shall be considered that portion, typically along the lot's narrowest part, which abuts the street or roadway where access is provided. Consideration shall be given to a structure's orientation in making a front yard setback determination (i.e. the front of a building faces the front of the lot).

   2. The rear yard setback typically runs parallel to the front yard setback and does not connect to the front yard setback.

   3. The side yard setbacks connect the front and rear setbacks and are perpendicular to them on square or rectangular lots.

   4. Front setback on flag lots shall be measured at lot width and the lot frontage shall be determined on a case-by-case basis with consideration to surrounding property and dwelling unit orientation.


Rear
Building Envelope
Interior Side
Interior Side
Front
STREET


Rear
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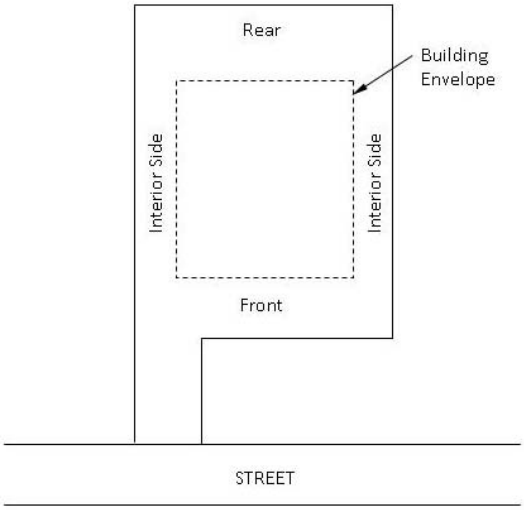
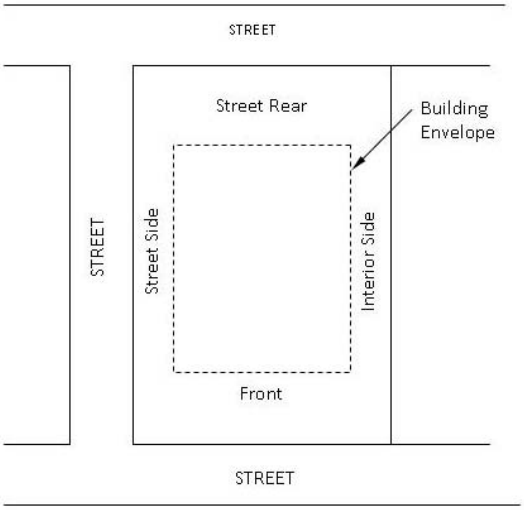
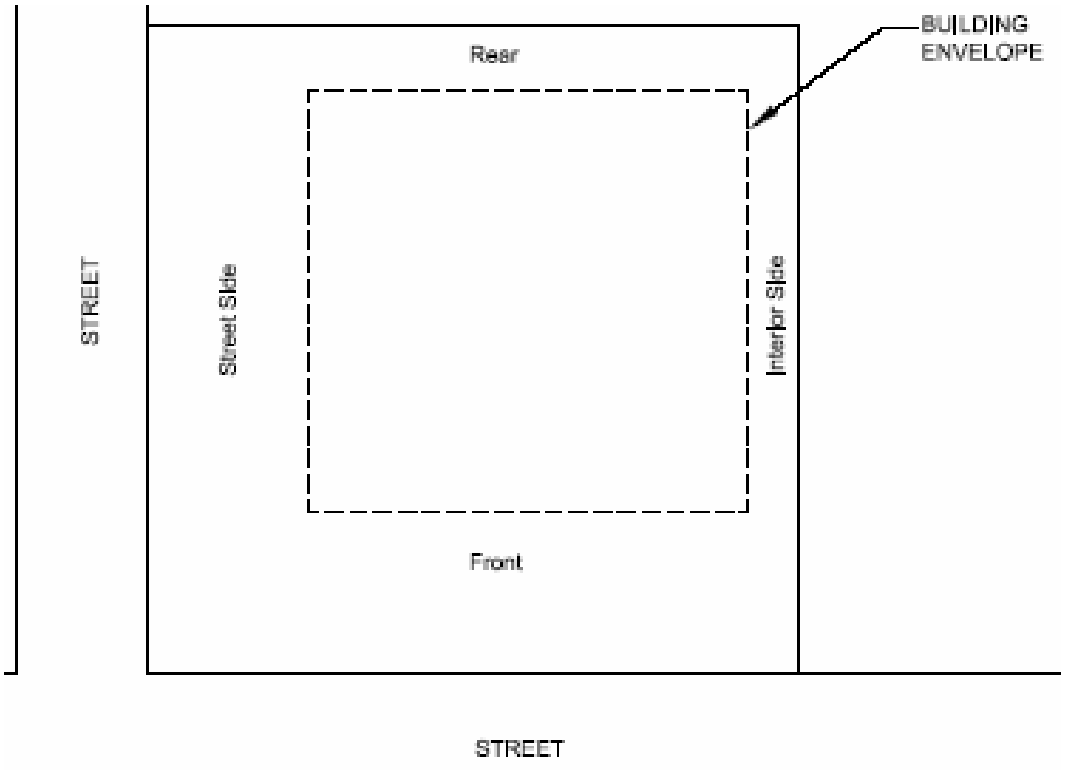
Interior Side
STREET


Rear
Building Envelope
Interior Side
Interior Side
Front
STREET


STREET
Street Rear
Building Envelope
STREET
Street Side
Interior Side
Front
STREET




B. *Permitted improvements within the required building setbacks.* The following improvements are permitted within the required setbacks (outside of the building envelope):

1. Man-made landscape features not exceeding three feet in height, including related minor structures described in Section 11.03 of Chapter 11.
2. Parking areas and associated driveways~~, provided they are not located within side yard setback areas for attached and detached single-family residential units, except when it~~ that provide~~s~~ access to a garage, provided such parking area or driveway shall not encroach into a drainage easement or required landscape buffer.
3. Private sidewalks and walkways provided they do not exceed six feet in width for detached single-family residential units and duplex units.
4. Concrete pads ~~50~~ 100 square feet or less.
5. Signs.
6. Minor utility installations including, but not limited to, fire hydrants, electrical and telephone boxes, and backflow prevention mechanisms. Some of these features may require screening in accordance with Chapter 11.
7. Aboveground mechanical equipment such as, but not limited to air conditioning units, permanently installed generators, and pool pumps and shall be screened in accordance with the requirements of Chapter 11; provided, ~~however,~~ that ~~this~~ equipment ~~shall be prohibited~~installed in a front setback area shall be done so only in the event that it is infeasible to install on the sides or rear of the property and shall be as close to the principal structure as allowed by Florida Building Code~~, and shall be screened in accordance with the requirements of Chapter 11~~.

8. Cantilevered patios, porches, and decks as well as sills, cornices, chimneys, flues, eaves, or other roof overhangs may extend a maximum of 30 inches into a setback area, but are prohibited within easements.

9. Sheds per Section 4.01 in Chapter 4.

C. *Additional setbacks for multistory buildings.* Additional setbacks for multistory buildings adjacent to a single-family residential zoning district shall be required for compatibility purposes. Any multistory building adjacent to a single-family zoning district shall provide an additional setback minimum of ten feet for each story above the first story.

D. *Waterline setbacks.* Stormwater retention facilities, canals, or other water features may be located on the lot or parcel. In these circumstances, the Land Use Administrator may determine that it is applicable to measure the setback from the bulkhead, water line, or mean high water line rather than the lot or parcel line.

E. *Reduction for public purpose.* When an existing setback on a developed lot or parcel is reduced due to the conveyance of land to a federal, state, or local government for a public purpose, the minimum setback requirement of the zoning district shall be reduced by the amount conveyed, up to a maximum of 50 percent of the setback requirement.

F. *Wireless communication facilities and equipment compounds.* Wireless communication facilities and equipment compounds shall have the same setback requirements as the zoning district in which they are located but no less than ten feet; shall have a minimum distance of 150 feet from all off-site residential zoned property, residential dwelling unit and the rights-of-way of Palm Coast Parkway, Belle Terre Parkway, Belle Terre Boulevard, and Old Kings Road.

3.05.03. *Calculating densities and intensities.*

A. *Residential densities.*

1. The determination of the maximum number of residential dwelling units or lots permitted on a residentially zoned parcel shall be calculated based upon the gross upland acreage in the predevelopment condition (i.e. prior to the property being subdivided into lots).

2. Twenty-five percent of wetland and/or imperiled upland habitat areas preserved from the predevelopment condition may be counted as "net upland acreage" in determining the maximum number of units as discussed in Paragraph A above. To be counted as preserved area, a wetland and/or imperiled upland habitat must be placed in a conservation easement, a separate conservation tract, or otherwise perpetually protected in the post development condition.

3. Application of the density/intensity calculations provides only a theoretical maximum dwelling unit or lot yield. It does not guarantee that the development will be approved to attain the maximum lot yield. Application of other development standards may substantially decrease the lot yield.

B. *Nonresidential intensities; impervious surface ratios; floor area ratio.*

1. In calculating impervious surface ratios or floor area ratios an applicant may get credit for an off-site drainage facility site. The amount to be credited shall be proportional to the size of the site in relation to all the sites served by the same facility.

2. Lots served by a master stormwater management system, where drainage facilities under common ownership are located off-site, may count a portion of the off-site drainage lot, tract, or parcel in calculating impervious surface ratios or floor area ratios. The portion of the off-site drainage property that is counted shall be in direct proportion to the size of the subject lot as compared to all of the lots being served.

C. *Densities and intensities in mixed use districts.* In zoning districts that allow mixed uses, the same land area shall not be counted for the purpose of both residential density and nonresidential intensity. The calculation methodology used shall be as defined by administrative rule.

3.05.04. *Recreation level of service.* All residential projects of 25 units or more shall provide recreational land to meet the level of service standard adopted in the Recreation and Open Space Element of the City's Comprehensive Plan, except for nursing homes and assisted living facilities or other residential care facilities. Recreational facilities must be permitted and under construction prior to the issuance of the permit for the 25th unit for residential projects.

(Ord. No. 2009-26, § 13, 12-15-09; Ord. No. 2015-9 , § 5, 8-4-15)

Sec. ~~3.06~~4.23. - Affordable Housing Mixed-Use Residential Development Standards.

~~3.06~~4.23.01. Zoning applicability. Applications for the development of property pursuant to the Live Local Act shall require the site to be zoned for commercial, industrial, mixed use, or portions of Master Planned Developments that allow for commercial, industrial, or mixed uses pursuant to Florida Statutes Section 166.04151(7) as amended. Additional properties eligible for live local developments regardless of the underlying zoning district shall include properties that are owned by either the City, County, school district, or a religious institution which has been developed with a house of worship for at least 10 years prior to the proposed development. For properties not owned by the City, County, school district, or a religious institution which has been developed with a house of worship for at least 10 years prior to the proposed development shall require the site to be zoned as permitted under Table 3-4 found under Section 3.03.02~~: COM-1, COM-2, COM-3, OFC-1, OFC-2, IND-1, or IND-2. The land area of these zoning districts shall be used to calculate the percentage of commercial and industrial properties within the City.~~ Properties developed as a house of worship seeking to apply for a live local development shall be at least three (3) acres in size. If the City designates less than 20 percent of the land area within its jurisdiction as commercial or industrial, it must authorize a proposed development pursuant to the Live Local Act only if the proposed development is a live local mixed-used residential development (see glossary).

~~3.06~~4.23.02. *Use of property.* Live local developments shall maintain the project as a live local mixed-use residential development and shall rent and hold available for rent no fewer than 40 percent of the dwelling units as affordable as defined in § 420.0004, Florida Statutes for rent exclusively to eligible households for the affordability period. The project shall have at least 65 percent, but no more than 70 percent of the buildable area of the property must be for residential purposes and at least ~~35~~ 10 percent of the buildable area of the property must be for commercial or industrial use reflective of the underlying zoning district's permitted uses. In the event that the project is for a vertically mixed-use development, then the non-residential component of the project may be 33 percent of the buildable area to facilitate vertically stacking non-residential and residential uses.

~~3.06~~4.23.03. *Development standards.* Live local mixed-use residential developments shall be subject to the requirements of the Land Development Code unless otherwise modified below:

A. Developments may utilize up to the maximum density allowed by any zoning district within the city.

B. Developments may utilize up to 150 percent of the maximum allowed floor area ratio of any zoning district within the city.

C. Developments may utilize the city's maximum allowed building height within one mile of the development. The additional setbacks for multistory buildings requirement found under Section 3.05.02(C) does not apply to developments made pursuant to the Live Local Act.

1. If the development is adjacent to a single-family residential development on two or more sides with at least 25 contiguous single-family homes, the maximum height for the development is restricted to 150 percent of the highest adjacent building, the zoning district's defined maximum height, or three stories, whichever is higher, not to exceed 10 stories.

D. Developments shall submit the residential and non-residential portions of the project concurrently within the same application to ensure the mixed-use nature of the project. If the development is phased, the non-residential portion of the project shall be constructed prior to the residential portion.

E. Developments may use ~~Vertical~~ vertical or horizontal mixed-used developments; however, vertically mixed-used developments are not permitted in IND-1 or IND-2 zoning districts due to potential life-safety issues that may be present when having permitted industrial uses and residential uses in the same building. ~~shall be permitted in the COM-1, COM-2, COM-3, OFC-1, OFC-2 zoning districts. Horizontal mixed-use developments shall be permitted in the COM-1, COM-2, COM-3, OFC-1, OFC-2, IND-1, or IND-2 zoning districts.~~

F. The development shall provide a perimeter landscape buffer as required in Section 11.03 based on its zoning district. Horizontally mixed-use developments shall provide a minimum of an internal D, E, or F landscape buffer in-between residential and nonresidential uses.

G. The non-residential component of a development shall be a principal use of the underlying zoning district and shall be designed so that it could be developed without a live local residential portion. The nonresidential component shall not be an accessory use to the residential use (such as a leasing office, but not limited to other accessory uses related to the management of a multifamily residential development).

H. A mixed-use development that includes an adult-oriented business or miniwarehouses, office warehouses and/or a self-storage facility as its non-residential component shall be prohibited.

I. The non-residential portion of a mixed-use development shall be integrated with the residential component of the project through use of sidewalks and internal roads. The non-residential and residential components of the project shall share the same access as for the project, provided the project may require more than one point of access in accordance with Section 5.02.04.

J. Loading and unloading and refuse collection areas servicing the non-residential uses of a mixed-use development shall be located to provide the least impact to any adjacent residential community.

K. Developments that are within a one-quarter mile of a transit stop or within 600 feet of an area with available surplus parking consisting of on-street, parking lots, or parking garages that can be utilized to meet the needs of the development the minimum parking requirements are eligible for a 20 percent reduction to its parking requirements. Provided that any available surplus parking utilized is memorialized by a shared parking agreement.

L. Proposed developments on property owned by the City, County, or school district must be party to the application. If the City, County, or school district do not authorize the application then the proposed development shall not be processed.

M. Proposed developments on property that is owned by a religious institution shall be required that the religious institution is party to the application and that the house of worship on site has existed for a minimum of 10 years. Any house of worship must continue to operate on the property after the proposed development is constructed.

~~3.06.~~4.23.04. *Exemption ~~for airport~~s.*

A. The Live Local Act does not apply to properties within one-quarter mile of a runway or its extension for 10,000 feet.

B. Areas subject to land development regulations, which existed prior to July 1, 2026, that are intended to retain the open character of land, including, but not limited to, areas required for a development to meet open space or recreational level of service requirements, or park land.

C. Any portion of a property encumbered by a recorded conservation easement.

~~3.06.~~4.23.05. *Affordability period.* The affordable residential portion of the development shall be subject to a minimum affordability period of 30 years from the date of its issuance of a certificate of occupancy.

~~3.06.~~4.23.06. *Land use restriction.* Prior to the issuance of a building permit for a live local project, the property owner shall execute and deliver to the City, a land use restriction agreement (LURA) provided by the City that details the affordable housing conditions, restrictions and compliance for the development including the City' s monitoring requirements. Furthermore, as a prerequisite to the issuance of a certificate of occupancy, the LURA shall confirm the affordability period, any conditions, and restrictions of the development, and shall be recorded in the public records of Flagler County, Florida at the sole expense of the property owner.

4.23.~~3.06.~~07. *Owner responsible for income verification.* For each affordable unit, the property owner shall be responsible for accepting rental applications and determining and verifying the adjusted gross income of prospective tenants to ensure such tenants qualify as an eligible household. Adjusted gross income shall be calculated by annualizing verified sources of income for the household as the amount of income to be received by the household during the 12 months following the effective date of determination. The property owner shall submit an annual report to the City as provided in the LURA.

4.23.~~3.06.~~08. *Affordable units must be comparable in quality to the market-rate units.* The affordable units shall be intermixed with, and not segregated from any market rate units within the live local project. At all times, the affordable units must be at least reasonably comparable in terms of size, features, and number of bedrooms to the market rate units. Eligible households shall not be excluded from using common area amenities within the project.

4.23.~~3.06.~~09. *Required recordkeeping.* The property owner of a live local development shall maintain complete and accurate income records pertaining to each eligible household occupying an affordable unit. These records must be updated annually and shall be maintained for at least ten years following the date of each such record. At a minimum, property owner shall maintain the following records for each occupied affordable unit:

A. An eligible household's complete application for tenancy and related information including the name of each household member, proof of identity, and employment, income, and asset information for each household member;

B. A copy of the lease agreement listing the term of tenancy, the rent, and identifying each tenant residing in the affordable unit;

C. Verification that the household is an eligible household as defined herein; and

D. Verification that the eligible household's rent is affordable as defined herein.

4.23.~~3.06.~~10. *Annual reporting requirements.* The property owner of a live local development shall provide an annual report to the City by September 30 of each year. The annual report shall provide the following information regarding each affordable unit:

A. Unit address;

B. Number of persons residing in each affordable unit;

C. The adjusted gross income of the persons residing in the affordable unit;

D. The monthly rent charged;

E. Any other information reasonably required to ensure compliance with the Live Local Act and requested by the City.

4.23.~~3.06.~~11. *Monitoring and inspection.* The property owner of a live local development shall permit the City to inspect all records, including but not limited to financial statements and rental records, pertaining to the affordable units within the development upon reasonable notice and shall submit to the City such documentation as required by the City to document compliance with the Live Local Act. The City may, from

time to time, make or cause to be made inspections of the affordable units and development rental records to determine compliance with the Live Local Act. The City shall notify the owner prior to scheduled inspections, and the owner shall make any and all necessary arrangements to facilitate the City's inspection.

(Ord. No. 2024-17, § 5, 11-12-24)

Sec. 4.01. - Accessory Structures.

This section provides additional specific development standards for ~~swimming pools, fences, walls, sheds, residential garages, generators, clotheslines, seawalls, and docks~~accessory structures within the City.

4.01.01. *General provisions for accessory structures.*

A. *Location.* Accessory structures, other than fences or as otherwise specified in this Code, shall not be located in public drainage or utility easements or within the required building setbacks. In addition, all accessory structures, other than fences, walls, arbors, trellises, ~~pergolas, and~~ detached garages, and aboveground mechanical equipment pursuant to Section 3.05.02, or as otherwise specified in this Code, shall be located behind the front and side street building facades of the principal structure. However, on corner lots, swimming pools and their enclosures, may be located in front of the side street building facade but shall meet the front yard setback requirements in lieu of the side street setback. Screening accessory structures with a fence or foundation plants (may be required in Chapter 11) when facing a right-of-way, golf course, canal, or other similar highly visible area.

B. *Construction and occupancy.* Permits for accessory structures shall not be issued until a permit has been issued for the principal structure. Seawalls are not considered accessory structures and building permits for these facilities may be issued in advance of the principal structure in accordance with City regulations.

C. *Architecture.* Refer to Chapter 13 for design standards.

D. *Accessory Structure Maximum Size.* Unless otherwise stated within this Section, the maximum size of a residential accessory structure shall not exceed 50 percent of the living area of the principal dwelling unit; provided that this requirement shall not apply to agricultural buildings constructed on an EST1, EST2 or AGR zoned property.

E. *Accessory Structures not listed in this Chapter.* The accessory structures listed in this section are not meant to be all-inclusive. Structures not specifically listed shall be reviewed by the Land Use Administrator to determine if the proposed use is similar in nature and character to others listed in the section. Based on the determination, the proposed structure shall be classified in the same manner as those similar structures listed in terms of it being permitted as an accessory structure. The Land Use Administrator may also determine that other structures are not permitted on the basis that they are not similar in nature or character to the other structures listed in the zoning district. Determinations may be appealed in accordance with the appeal procedures established in Chapter 2.

4.01.02. *Fences and walls.*

A. *General requirements.*

1. *Setbacks, orientation, and placement.*

a. Fences shall be installed with the finished side facing the exterior of the property.

b. No fence or wall shall interfere with drainage on a site.

c. Fences and walls may be located within an easement as long as they do not interfere with utilities; provided, however, such structures are subject to removal and replacement at the property owner's expense by the requesting utility agency.

d. Fences and walls in front of the front building facade of residential dwellings shall only be permitted in the AGR, EST-1, and EST-2 Districts.

e. Refer to Chapter 11 for applicable buffer and screening requirements for fences and walls.

f. Decorative walls and solid fences are permissible surrounding the perimeter of a development that is at least five acres in size.

g. Gates are considered parts of fences and walls and are regulated accordingly. Gates shall not open or swing onto neighboring properties.

2. *Height.*

a. The maximum height shall be measured from finished grade to the top of the fence or wall. The finished grade shall not be altered to increase fence height and where a berm is constructed, the height of the berm over the finished grade shall be included in determining fence height. Decorative wall columns and occasional architectural embellishments to fences may extend up to 12 inches above the maximum height permitted.

b. The maximum height of any fence or wall located in interior side or rear yards behind the nearest front building facade shall be six feet~~, unless otherwise specified in this Code or as approved by the Land Use Administrator for health, safety, or environmental protection purposes~~.

c. A fence or wall on a residential lot located to the rear of the principal structure and within 20 feet of a saltwater waterway is limited to a height of four feet, except in the following situations:

(1) An open fence is allowed to a height of six feet.

(2) A fence or wall enclosing a pool deck that is setback at least 7.5 feet from the side property lines and at least 15 feet from the saltwater waterway is allowed to a height of six feet.

d. Within the EST Districts, the maximum height of any fence or wall in front of the front building facade or located in a street side yard shall be a maximum of four feet.

e. Fences immediately surrounding civic ~~or~~, public, or private recreational sports playing fields located on lots over one acre in size may be constructed to a maximum height of 12 feet and hooded backstops for diamond sports may be increased to a maximum height of 28 feet, with approval of the Land Use Administrator.

3. *Design and Materials.*

a. Fences shall be constructed utilizing rot-resistant material for any part of the fence coming in contact with the ground. All fences shall be constructed of customary fencing materials and finishes. Wood and vinyl fences shall meet the color standards of Section 13.02.06.B.1. or be finished in a wood stain or simulated wood finish in a non-prohibited color as outlined in Section 13.02.06.B.3. Fences constructed of treated lumber may remain unfinished.

b. Chainlink, aluminum (except for decorative aluminum fences), or similar fences shall be prohibited in yards fronting along arterial and collector roadways.

c. Chainlink, aluminum, or similar metal fences shall be black or bronze in color, except that aluminum fences may also be white in color. Chainlink fences shall not have slats, fabric or similar types of screening materials attached to them.

d. Walls shall be made of the following materials:

(1) Brick, Norwegian brick, jumbo brick or stone.

(2) Split-faced block or finished masonry walls where block seams are not visible. Finished masonry walls shall also include a tile, brick, or decorative trim at or near the top of the wall.

(3) Wrought iron or aluminum fence in combination with brick, jumbo brick, or finished masonry columns.

(4) Pre-cast concrete having a simulated wood stone or brick pattern.

(5) Other materials as approved by the Land Use Administrator.

e. Walls shall have columns spaced as follows:

(1) Twenty-foot maximum spacing on walls 100 linear feet, or less.

(2) Thirty-foot maximum spacing on walls 101—200 linear feet.

(3) Forty-foot maximum spacing on walls over 200 linear feet

f. No barbed wire, razor wire, or electrically charged fence shall be erected, unless otherwise specified in this section. Broken glass, steel spikes, or other sharp objects intended to restrict access along the top edge of a fence or wall are prohibited.

g. Chicken wire, field fences, and other similar fence types are prohibited, except in the utilization of bona-fide agricultural purposes in the AGR and EST-2 Districts.

B. *Nonresidential districts.*

1. Setbacks may be required between fences or walls to property lines in order to provide landscape buffers in accordance with the requirements of Chapter 11 or in the event that a proposed fence is located within sight triangles or in a manner that obstructs visibility to vehicular traffic. In either case the Land Use Administrator shall determine the appropriate distance to setback the proposed fencing or walling.

2. Within the IND, COM, ~~and~~ PSP Districts and nonresidential portions of Master Planned Developments, the following shall apply:

a. Fences and walls may exceed maximum permitted height by up to two feet if they are part of an approved or required landscape buffer meeting the requirements of Chapter 11.

b. Fences or walls needed to provide extra security or safety may exceed maximum permitted height by up to two feet, with an additional 18 inches of barbed wire or other material upon approval by the Land Use Administrator.

C. *Special provisions for subdivision entrance features.*

1. Fences and walls used as decorative features at subdivision entrances may exceed maximum permitted heights by up to four feet upon approval by the Land Use Administrator. This measurement shall exclude decorative wall columns, which may extend a maximum of 12 inches beyond the top of the wall or 18 inches above the height of a wall framing an identification sign. Light fixtures may extend up to 42 inches above the height of the wall.

2. Entrance walls and landscaping shall be located within a designated easement, tract, or common area.

3. Wall jogs and spanned footer intervals shall be used, where possible, to avoid existing trees. Buffer width requirements may be waived to the extent necessary to protect the specimen trees.

4. The main entrance wall shall be landscaped in accordance with Chapter 11.

5. Only perimeter fences and walls may exceed maximum permitted height by up to two feet if they are part of an approved or required landscape buffer meeting the requirements of Chapter 11, or to address significant differences in grading between the subdivision or adjacent property.

D. *Special provisions for fences and walls in the AGR Districts.* Fences used to contain farm animals or to separate crops relative to bona fide agricultural uses are exempt from this section.

4.01.03. *Garages, attached and detached.*

A. *General requirements.*

1. Enclosed garages shall be constructed in association with the construction of all detached single-family residential units, duplexes, and townhouses.

2. Garages shall not be converted into any other use, unless another garage is constructed in compliance with this Code.

3. Garage units for multifamily projects shall be provided for a minimum of one-third of the proposed multifamily units.

4. Garages shall not exceed ~~the~~ 20 feet in height ~~of the first story of the principal dwelling unit~~.

5. Carports shall be prohibited in all residential districts except for developments in the MHD District.

B. *Attached garages.*

~~1. Shall have a maximum depth of 30 feet.~~

~~2~~1. Shall not exceed 50 percent of the total living area of the principal dwelling unit.

C. *Detached garages.*

1. Detached garages are permitted in all zoning districts; however, in the MHD District special exception approval is required.

2. Shall not exceed 50 percent of the total living area of the principal dwelling unit.~~Detached garages shall have a maximum building footprint of 500 square feet.~~

D. *Garages in neotraditional developments.* For garage requirements in a neotraditional development, refer to Section 4.08.

4.01.04. *Generators, permanently installed.* The following standards shall apply to all permanently installed generators:

A. Generators ~~are prohibited~~ within the required front and street side yard ~~and prohibited in front of the front building line of the principal structures~~shall be screened by either a fence or a vegetative screening.

B. Generators may be operated for testing purposes one time per week, excluding Sundays, for a period not exceeding 30 minutes between the hours of 10:00 a.m. and 6:00 p.m.

C. A maximum of one generator is allowed per single-family, duplex, or townhouse residential dwelling unit and one generator is allowed per multiple family building.

D. Generators shall be set back a minimum of ten feet from the rear property line in all zoning districts.

E. Generators shall be set back a minimum of three feet from the side interior property line(s) in all zoning districts, but shall not be located within an easement.

4.01.05. *Residential docking facilities along saltwater and freshwater canals (and intracoastal waterway, as applicable).*

A. *Prohibitions.*

1. Under no circumstances shall a vessel docked or moored off a residential docking facility be used as a live aboard watercraft.

2. Accessory structures and concrete decks are prohibited along a seawall or in the rear easements and setbacks of property along waterbodies.

B. *General standards.*

1. *Drainage rights-of-way.*

a. Any groundcovers disturbed in the drainage rights-of-way during construction or maintenance activities shall be promptly replaced and properly maintained by the abutting property owner to prevent erosion.

b. Drainage rights-of-way shall not be filled in such a way as to reduce the cross-sectional area used for flow of stormwater.

2. *Dredging and spoil management in saltwater canals.* Dredging activities shall be conducted by a qualified contractor and consistent with the applicable best management practices concerning dredging operations and performed only after approval by the Land Use Administrator. Dredging activities shall be accomplished in conformance with existing permits.

3. *Safety.*

a. All structures and associated facilities shall be properly constructed and secured to prevent potential hazards from floating into the waterbody.

b. To eliminate potential waterbody contamination, all structures shall be constructed with materials that do not result in contamination.

c. The City shall require removal of derelict vessels and lifts consistent with City standards.

4. *Roofs.*

a. Roofs over docks and lifts shall be a maximum height of 13 feet above seawall cap for saltwater canals and above the deck for freshwater canals.

b. Roofs shall be constructed with the same material and ~~of the same~~ color as the principal structure adjacent to the waterbody, with the exception that tile or metal roofing is not required on a residential docking facility; however, the color shall still match the color of the principal structure.

c. All roofs shall be "Hip" style roofs.

d. All roofs shall be constructed with a minimum 4½:12 pitch.

e. For roofed structures on freshwater canals, the size of a roof shall not be greater than 12 feet by 14 feet and the roof overhang shall not exceed two feet.

f. The maximum length of roofs located over a dock slip, dock lift, or water on saltwater canals shall be 26 feet of dock roof for the first 60 feet of property frontage, plus four feet of roof length for every five feet of property frontage thereafter, not to exceed 46 feet. Roof length for property with a frontage less than

60 feet shall be determined by the Land Use Administrator on a case-by-case basis based on generally accepted planning practices.

C. *Saltwater canal single-family residential docking facilities.*

1. *Placement of docking facilities.* The location of docks, lifts, and boathouses within the navigable waters of the City shall be determined on an individual basis, with visual impact, navigational use, and aesthetic quality of prime concern.

2. *Single pilings.* Single pilings or "dolphins" are prohibited, except for installation alongside a seawall or bulkhead.

3. *Setbacks and size.*

a. The minimum setbacks from a projection of the side property line to the structure shall be a minimum of ten feet. Other setbacks may be considered by the Land Use Administrator based upon lot size, location, easements, existing structures, and navigation.

b. The length of all docks, inclusive of all components, shall not exceed 65 percent of the property frontage along the canal. The size of the vessel and location of adjacent docks shall be considered to ensure that the vessel does not interfere in any manner with the navigation of ingress and egress. Setbacks may be increased or decreased for lots less than 60 feet in width or lots that have a storm drainage easement.

c. Vessels shall be docked/moored parallel to the property line/seawall. Docks/moorings perpendicular to the property line/seawall are prohibited.

d. Other than cantilevered safety walks, all dock walkways shall be no less than three feet or greater than six feet. The maximum width for docks, including boatlifts, shall be determined based on the width of the waterbody as described in Table 4-2. Dock width shall be measured at right angles from the boundary of the waterbody at the proposed structure location.

*Table 4-2. Maximum Dock Widths for Saltwater Canals*

| Waterbody Width | Maximum Dock Width |
|---|---|
| Less than 100 feet | 12 feet |
| 100 feet or greater | 16 feet |

4. *Floating docks.*

a. Floating docks shall not exceed a length of 20 feet as measured parallel to the canal frontage.

b. Floating docks may be used in conjunction with permanent docking structures but must meet the criteria established herein.

5. *Boatlifts within canal areas.*

a. All boatlifts, inclusive of all components, shall be mounted or installed within the 12 feet or 16 feet dimension allowed for structures in the waterbody.

b. Boatlifts on waterfront lots with dimensions less than 60 feet of water frontage or lots with unusual conditions are not allowed unless granted an administrative waiver by the Land Use Administrator. The location of easements, culvert pipes, and navigability are unusual conditions that may be considered.

6. *Cantilever safety walk extensions.* Cantilever safety walk extensions may be approved by the Land Use Administrator based upon the following criteria:

a. The length of a cantilever safety walk extension shall be the minimum necessary to access the watercraft.

b. Cantilever safety walk extensions shall not extend more then 12 inches beyond a 12-foot boat slip or lift and pilings.

D. *Freshwater canal residential docking facilities.*

1. Docks and decks over the waterbody shall meet the Florida Department of Environmental Protection minimum clearance requirements.

2. Structures shall not project into the waterbody more than eight feet from the shoreline at normal water level.

3. No permanent source of electrical power, water, telephone, gas, or other items requiring piping or cable shall be extended onto the drainage rights-of-way.

4. Floating docks are not permitted.

5. Roofed structures shall not contain enclosed sides including, but not limited to, solid material, screening, or clear plastic.

4.01.06. *Seawalls and revetments.*

A. *Permit required.* A building permit shall be obtained prior to commencement of new construction and reconstruction or repair of seawalls and revetments. Seawalls and revetments shall be constructed in accordance with the following requirements.

B. *Prevent soil erosion, runoff and debris.*

1. Prior to construction of a seawall or revetment on undeveloped property, the following actions shall be taken to prevent soil erosion and protect the waterbody from runoff and debris:

a. Only the minimum area necessary for access and construction of the seawall or revetment and backfill shall be cleared.

b. A minimum 15-foot wide buffer of natural vegetation shall be preserved along each side lot line starting at a point ten feet from the waterfront.

c. Access to the waterfront shall be limited to an area no wider than 15 feet located in the interior of the lot.

d. A 30-foot wide buffer shall be preserved along all property lines abutting a street right-of-way except for the area cleared for the access point. Tree protecting barricades shall be erected around the perimeter of the buffer areas that are to remain.

2. Prior to construction, reconstruction, or repair of a seawall or revetment, a floating turbidity barrier shall be installed to prevent siltration into the canal until the slopes are stabilized. The ends of returns and the backside of the seawall or revetment shall be sodded or stabilized with other appropriate vegetation a minimum of five feet from the edge of the structure, or stabilized with erosion control devices, to prevent siltration on adjacent properties or into the canal.

3. Prior to the reconstruction or repair of existing seawalls and revetments, backfill shall be deposited behind the seawall in order to establish a swale not less than five feet from the seawall to collect any eroded material before it reaches the canal.

   a. Construction and vegetative debris on the site shall be continually removed throughout the construction activities and when construction is complete.

   b. When construction is complete, all cleared areas shall be sodded with native or water-conserving turf grasses. It shall be the responsibility of the lot owner to insure sodded areas are watered until established.

C. *Violations.* It is prohibited and unlawful:

1. To allow material to be deposited or to erode into any waterbody and fail to remove it.

2. For a contractor to fail to backfill bulkheads within 30 days after construction or repair of the bulkhead.

D. *Exceptions to violations.* The following are exceptions to the violations listed above:

1. Temporary waterbodies created to hold runoff water during construction.

2. Special exceptions granted by the City on applications where sufficient reason and safeguards are shown to protect the public interest.

E. *Vertical seawalls.* The following establishes criteria for construction, repair, and replacement of vertical seawalls in all saltwater canals in the City.

1. Vertical seawalls shall have reinforced concrete cap, with top of cap to be set at elevation two and one-half feet, North American Vertical Datum (NAVD 1988), above mean sea level (1929 NAVD) or match abutting existing caps. Cap height exposed face shall be 12 inches.

2. Vertical seawalls shall be located at and along the property line common with the waterbody or approved otherwise by other agencies.

3. The materials for all vertical seawalls shall be reinforced concrete or vinyl.

4. Vertical seawalls shall be grey in color. No painted surfaces are permitted.

F. *Landscape.* Any groundcover disturbed in the drainage rights-of-way during construction or maintenance activities shall be promptly replaced and properly maintained by the abutting property owner to stabilize the soil and prevent erosion.

G. *Safety.* All structures and associated facilities shall be properly constructed and secured to prevent potential hazards from floating into the waterbody.

4.01.07. *Sheds, gazebos, and pergolas.*

A. *Permitted locations and size.*

1. Only one shed, not to exceed 200 square feet, shall be allowed per lot.

2. The shed, gazebo, or pergola shall not be located in front of the building line of the principal structure.

3. A shed, gazebo, or pergola 100 square feet and less may be located up to five (5) feet from an abutting interior side or rear property line. A shed, gazebo, or pergola exceeding 100 square feet ~~Sheds~~ shall ~~be set back at least ten feet from~~meet the rear property ~~line~~ setback and shall meet the interior side setback requirements of the district. ~~However, sheds that do not exceed 100 square feet in size may be located up to five feet from the abutting interior side or rear property line.~~Any shed, gazebo, or pergola shall meet the street side setback, if applicable.

4. In no event shall a shed, gazebo, or pergola, or any part thereof, be permitted within an easement or buffer.

B. *Height.* The maximum building height for any shed, gazebo, or pergola shall be 12 feet.

4.01.08. *Swimming pools.*

A. *General.*

1. Lights used to illuminate any swimming pool shall be arranged and shaded to reflect light away from adjoining properties.

2. All swimming pools, hot tubs, and spas shall be enclosed by a permanent full screen enclosure or with a permanent wall or fence of a least four feet in height. Any solid roof covering for a swimming pool, hot tub, or spa shall adhere to the setbacks of the principal structure.

B. *Setback requirements.*

1. Setbacks for pools with decks shall be measured from the outer edge of the pool deck.

2. Setbacks for pools without decks, including above-ground pools, shall be measured from the outer walls of the pool.

4.01.09. *Clotheslines.*

A. All clotheslines must be located behind the dwelling and shielded as much as practical from view of any street.

B. Outdoor revolving umbrella style or 'T' posts are acceptable.

C. Attaching clotheslines to trees is prohibited.

4.01.10 *Playsets and Playhouses.*

A. *General.*

1. Playsets, playhouses, and similar uses shall be permissible as an accessory use in residential zoning districts and shall be located rearward of the rearmost façade of the principal structure.

2. Playsets, playhouses, and similar uses shall not include electrical or plumbing installations.

B. *Setbacks and Height.*

1. Playsets, playhouses, and similar uses 100 square feet or less may be located up to five (5) feet from an abutting interior side or rear property line. Playsets, playhouses, and similar uses exceeding 100 square feet in size shall meet the applicable setback requirements of the district. In all cases playsets, playhouses, and similar uses shall meet the street side setback, if applicable.

2. Playsets, playhouses, and similar uses shall not exceed 12 feet in height from finished grade.

3. In no event shall a playset or playhouse, or any part thereof, be permitted within an easement or buffer.

(Ord. No. 2009-26, §§ 14—25, 12-15-09; Ord. No. 2015-08 , § 3, 7-21-15; Ord. No. 2015-16 , § 2, 12-1-15)

Sec. 4.02. - Adult Entertainment and Sexually-Oriented Businesses.

4.02.01. *Applicability.* This section applies to businesses that provide entertainment or offer sexually-oriented material or activities as their primary or dominant theme and whose intended market is persons 18 years of age or older. Businesses that market sexually-oriented material include, but are not limited to, the following:

A. Adult book and video stores.

B. Adult motels.

C. Adult performance establishments.

D. Adult theaters.

4.02.02. *Compliance with City and State Law.* Adult entertainment and sexually-oriented businesses shall comply with Chapter 16, Article III in the City of Palm Coast Code of Ordinances and F.S. ch. 847 .

4.02.03. *Adult entertainment and sexually-oriented facility design standards.* Each adult entertainment establishment and sexually-oriented business licensed to operate in the City shall comply with the following standards in addition to the architectural standards set forth in Chapter 13 and all other applicable provisions of the Land Development Code:

A. *Building design.*

1. The building shall not exceed 3,000 square feet of gross floor area.

2. The maximum building height shall be 35 feet.

3. There shall be separate entrances for employees and customers, which shall be labeled as such. Both entries shall occur at the rear or back of the building rather than in front whenever practicable, as determined by the Land Use Administrator, based upon generally accepted land use principles and the configuration of the particular parcel.

4. Off street parking shall comply with requirements in Chapter 5.

B. *Signage.* Signs shall be subject to the requirements of Chapter 12.

C. *Existing buildings.* Each adult entertainment establishment and sexually-oriented business desiring to locate in an existing building shall comply with all design standards requirements as set forth in this section.

Sec. 4.03. - Agricultural Uses.

4.03.01. *Bona fide agricultural uses.*

A. *License required.* All bona fide agricultural uses shall obtain a license from the Department of Agriculture if required by law.

B. *Odor; dust.* All agricultural uses shall be operated so no odor or dust producing substance or use, except in connection with cultivation of permitted uses, is conducted within 100 feet of the property line adjacent to a parcel or lot located within the SFR or MFR Districts.

4.03.02. *Equestrian uses.*

A. *Number of horses.* A maximum of one mature animal and offspring less than one year of age shall be permitted per acre of property.

B. *Riding facilities.*

1. No structure housing the animals shall be located any closer than 50 feet of the property line adjacent to any residentially zoned parcel. This perimeter setback shall be increased to 100 feet for riding arena facilities with outdoor lighting and seating.

2. Riding trails may be permitted within any required buffer.

4.03.03. *Mining and soil extraction.*

A. *General requirements.*

1. Appropriate measures must be utilized to prevent fugitive dust from the excavation and haul truck traffic. All roads shall be maintained and free of sand and other related construction debris.

2. If applicable, St. Johns River Water Management District permits are required for dewatering or surface water discharge activities.

3. Perimeter buffering shall be utilized to limit visibility and noise of operation from adjacent land uses as appropriate, which may include fencing, earthen berms, existing vegetation, installed vegetation, or a combination thereof.

4. The City may set hours of operation to minimize adverse impacts to adjacent land uses so as not to produce a public nuisance. Excavation and haul traffic may only occur during daylight hours.

5. Appropriate fencing or security measures shall be provided to safeguard the site from unauthorized entry.

6. Reclamation of excavation sites shall resemble a natural system to the greatest extent feasible in accordance with federal and state requirements.

B. *Soil extraction.* For purposes of this section, soil extraction shall mean public or private commercial activities specifically undertaken for the primary purpose of excavating clean fill (i.e. clay, sand) from upland sites to be removed for the purpose of being utilized for an offsite project. This excludes installation of utilities, stormwater facilities, wetlands, and excavating, grading, filling, and moving of earth in conjunction with the installation of infrastructure to serve a subdivision or activities undertaken in conjunction with improvements approved as part of a development order. Soil extraction facilities shall demonstrate compliance with the following minimum setbacks measured from the edge of the excavation pit or area:

1. One hundred feet from the project perimeter and increased to 200 feet abutting any property zoned SFR, MFR, or MHD.

2. Minimum excavation setback of 25 feet, with an average setback width of 50 feet, from optimal wetlands; an average setback width of 25 feet, but no less than 15 feet from moderate and minimal wetlands; and a setback of 75 feet from a named wetland system, creek, river, saltwater canal, freshwater canal, or other open drainage feature or other surface water of the City.

C. *Mining.* For purposes of this section, mining operations shall include facilities that require a permit from the Florida Department of Environmental Protection, Bureau of Mining and Reclamation. Mining operations shall demonstrate compliance with the following requirements:

1. *Setback requirements.* Mining facilities shall include the following minimum setbacks measured from the edge of the excavation area:

a. Two hundred fifty feet from the project perimeter and increased to 500 feet abutting any property zoned SFR, MFR, or MHD.

b. Minimum excavation setback of 25 feet, with an average setback width of 50 feet, from optimal wetlands; an average setback width of 25 feet, but no less than 15 feet from moderate and minimal wetlands; and a setback of 75 feet from a named wetland system, creek, river, saltwater canal, freshwater canal, or other open drainage feature or other surface water of the City.

2. *Blasting.* No blasting shall be conducted within the City unless it can be demonstrated that said activity is being undertaken in a manner that in no way adversely affects the health, safety, and welfare of the residents and businesses within the City.

4.03.04. *Aviaries.* An aviary shall comply with all applicable state regulations. The following general requirements apply:

A. Minimum setback from any residentially zoned property shall be 100 feet from the property line. Otherwise, the structure shall be located no closer than 50 feet from any property line.

B. Reasonable precautions shall be taken to prevent an environment suitable for pathogens that cause public health hazards such as psittacosis, cryptococcosis, and histoplasmosis. Occurrence of any of the aforementioned illnesses to the property owner or an occupant of the property shall be reported by the property owner to the Flagler County Health Department.

## Sec. 4.04. - Alcoholic Beverage Sales.

Refer to Chapter 7, Article I and Article II in the City of Palm Coast Code of Ordinances.

## Sec. 4.05. - Cemeteries.

Within the zoning districts permitting cemeteries, the following regulations shall apply:

A. No graves or burial lots/sites shall be located closer than 40 feet from all rights-of-way and no closer than ten feet from all other boundary lines of the subject property.

B. Adequate means of ingress and egress for vehicles shall be provided within the site in order to provide an easy flow of traffic while funeral processions are entering or leaving the site.

## Sec. 4.06. - Community Residential Homes and Recovery Residences.

4.06.01. Community residential homes shall meet the requirements of F.S. ch. 419.

4.06.02. Recovery Residences. Additional limitations specific to uses listed. No building or structure or part thereof shall be erected, altered or used, or land or water used, in whole or in part, for other than as a conditional use with approvals subject to the provisions of this ordinance:

Recovery residence.

A. Recovery residence in single-family zoning district, except as required by Chapter 419, Florida Statutes, only with the following characteristics:

1. In accordance with FS.Ch.419, the community residential home that is located less than 1000 linear feet from the closest existing community residential home or recovery residence. Distance is measured from the nearest lot line of the entire parcel of the proposed Recovery Residence to the nearest lot line of the entire parcel of the closest existing recovery residence; and/or

2. Would be occupied by no more than ten residents; and

3. Duplex Properties can only occupy one side of the residence; and

4. The operator or applicant has been granted all available licensing or certification by the State of Florida known as Florida Association of Recovery Residences (FARR) to operate the proposed recovery residence, and

5. A recovery residence that has been denied an license or certification by the State of Florida or had a license or certification suspended, or is denied recertification or renewal of its license is not allowed in the City of Palm Coast and must cease operation and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or its recertification was denied.

B. Recovery residence in multi-family zoning district. Except as required by Chapter 419 Florida Statutes only with the following characteristics:

1. In accordance with FS.Ch.419, the community residential home that is located less than 1200 linear feet from the closest existing community residential home or recovery residence. Distance is measured from the nearest lot line of the entire parcel of the proposed Recovery Residence to the nearest lot line of the entire parcel of the closest existing recovery residence; and

2. Would be occupied by up to 20 residents occupying a maximum of 3 contiguous dwelling units within the same multifamily complex; and

3. The operator or applicant has been granted all available licensing or certification by the State of Florida known as Florida Association of Recovery Residences (FARR) to operate the proposed recovery residence, and

4. The operator or applicant has been granted all available licensing or certifications by the State of Florida to operate the proposed Recovery Residence,

5. A recovery residence that has been denied a license or certification by the State of Florida or had a license or certification suspended, or is denied recertification or renewal of its license is not allowed in the City of Palm Coast and must cease operation and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or its recertification was denied.

C. Recovery Residence Procedure

The purpose of a reasonable accommodation request is to modify a specific City of Palm Coast requirement to ensure an individual with a disability and/or handicap have equal opportunity to use and enjoy a dwelling, building or structure, or to provide accessibility in another manner. This policy implements the procedure of the City of Palm Coast, Florida (“City”) for processing reasonable accommodation requests to its Code of Ordinances, Unified Land Development Regulations, rules, policies, and procedures for persons with disabilities and/or handicaps as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) ("FHA") and Title II of the Americans with Disabilities Amendments Act (42 U.S.C. Section 12131 et seq.) ("ADA"). For purposes of this procedure, a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled or a provider of services to the disabled qualifying for a reasonable accommodation may request a reasonable accommodation with respect to the City's Code of Ordinances, its land use or zoning laws, and/or rules, policies, practices and/or procedures, as provided by the FHA and the ADA pursuant to the procedures set forth herein.

1. Provide a Reasonable Accommodation application (see exhibit “A”) including the following:

   a. Certification from FARR showing the level of care approved.

   b. Occupancy Permit including following:

      i. A Dimensioned Life Safety Plan prepared in accordance with the Florida Fire Prevention Code and Life Safety Code.

      ii. Proof of Insurance

      iii. As per Section 397.487(6), Florida Statutes, a copy of the level 2 background screenings for all owners

2. Procedures for issuance. No Recovery Residence license shall be issued or granted unless:

   a. An application is filed with the City of Palm Coast an Occupancy Care Home forms provided for that purpose, and

b. There has been a site inspection by the City of the applicant's premises, and

c. The planning and zoning division has reviewed and approved the zoning use classification, and

d. The City has verified compliance with all applicable laws and regulations, and

e. Payment of the recovery residence occupancy license fee, to be established by resolution of the City Council, shall be required prior to the issuance of the license, and

f. Obtain a City of Palm Coast Business Tax Receipt.

g. Obtain a certificate of occupancy and/or change of use prior to issuance of community residence or recovery community license. Any community residence or recovery community that is required to obtain a certificate of occupancy and/or change of use pursuant to the Code of Ordinances must do so prior to the issuance of a license.

h. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, the address of recovery residence. The recovery residence license shall be posted in a conspicuous place at or near the entrance inside the recovery residence so that it may be easily read at any time by an inspector.

3. Grounds for denial. The Director of the Department of Community Development or designee, as appropriate, shall have the authority to deny an application for a community residence or recovery community license on the following grounds:

a. That the applicant has failed to disclose or has misrepresented a material fact, or any information required in the application.

b. That the applicant is desiring to operate a recovery residence which does not comply with the City's Land Development Code.

c. That the applicant has failed to obtain a certificate of occupancy and/or change

of use, if required.

d. That the certificate of occupancy or change of use for the proposed location has been denied, suspended, or revoked for any reason.

e. Applicant's noncompliance with specific provisions of federal, state, city or county ordinances, with respect to the specific use, and the applicant.

f. Fails to obtain said approvals prior to issuance of a license; or

g. Has violated such specific provisions.

h. The applicant has violated any provision of the Code of Ordinances or Land Development Code and has failed or refused to cease or correct the violation within (30) days after notification thereof.

i. The applicant failed to permit inspection by the City; or

j. Or as otherwise provided in the Code of Ordinances.

k. The operator or applicant has not been granted all available licensing or certification by the State of Florida.

4. Any person whose application has been denied as provided herein shall have the right to appeal to the City Manager explaining in detail the nature of the appeal and the grounds on which it is based. This written appeal must be received by the City Manager no later than three business days after the Director Community Development designee, determination.

5. Any person whose application has been denied as provided herein shall have the right to appeal to the City Council explaining in detail the nature of the appeal and the grounds on which it is based. This written appeal must be received by the City Clerk no later than three business days after the City Managers written response.
6. Any recovery residence shall permit officers or agents of the City of Palm Coast to inspect, from time to time on an occasional basis, the recovery residence for the purpose of ensuring compliance with all applicable regulations pertaining to recovery residences. A licensee's knowing or intentional refusal to permit such an inspection shall constitute a violation of this section for purposes of license denial, suspension, and/or revocation. This section shall be narrowly construed by the city to authorize reasonable inspections of the licensed premises pursuant to this article, but not to authorize a harassing or excessive pattern of inspections.
7. Each license shall remain valid for a period of one (1) calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application or renewal.
8. A licensee shall not transfer license to another, nor shall a licensee operate a recovery residence under the authority of a license at any place other than the address designated in the recovery residence license application.

D. Revocation.

1. The city shall revoke a recovery residence license if it determines that:
    a. The license holder has failed to disclose or has misrepresented a material fact or information required by this article in the application;
    b. The license holder does not operate in the manner described in the application or has changed the operation without authorization through approval of a new license;
    c. The certificate of occupancy for the location has been denied, suspended or revoked for any reason;
    d. In the event of a conviction of any owner, operator, manager, supervisor, or any employee acting at the direction or with the knowledge of the owner, operator, manager, or supervisor, by a court of competent jurisdiction, for the violation of any criminal statute committed in conjunction with the facility operation;
    e. The license holder has violated any provision of or failed to maintain compliances with the City Code and has failed or refused to cease or correct the violation after notification thereof;
    f. The holder of the license, or the holder's designated manager, operator, or supervisor, refuses to permit an authorized City inspector to inspect the premises during normal business hours for a regular inspection or for the purpose of investigating a complaint which has been filed against the operation.
    g. The licensee has knowingly engaged in or allowed possession, use, or sale of controlled substances on the premises.
    h. The operator or facility has been denied license or certification by the State of Florida, or license or certification is suspended, or is denied recertification or renewal of its license is not allowed in the City of Palm Coast and must cease operation and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or its recertification was denied.
2. Suspension and Revocation procedure. The procedure for suspension and revocation of a license shall be as follows:

a. If at any time the City of Palm Coast determines that the recovery residence is operating in any manner in violation of federal, state, county or city law or harmful to the public health, safety or welfare the city may file a notice of violation, through the special master process in the manner provided for by F.S. Ch. 162, and Chapter 17 of the Code of Ordinances.

b. If a license is revoked the applicant(s) may not apply for another license until one (1) year from the date of the effective date of the revocation, unless the basis for the revocation has been corrected or abated.

c. If a license is suspended for a specific period of time, the license shall remain suspended until the basis for the suspension has been corrected and the suspension period has expired.

E. Non-conforming Use and Structures.

Any nonconforming use of a building or land may be continued subject to the following conditions and requirements:

Requirements for nonconforming recovery residences. A recovery residences located in the City of Palm Coast as of the date of adoption of this Ordinance that does not currently have all available licenses, certifications or recertification designated from the State of Florida within 9 months after the adoption of this Ordinance shall no longer constitute a legal nonconforming use and must cease operation by the date that is exactly 9 months after the adoption of this Ordinance or within 60 days of the date on which all available certification, recertification, or the required license is denied, whichever date comes first. Such a recovery residences must either return residents to their families or relocate them to safe, secure housing within 60 days of the date on which all available certification, recertification, charter, or license is denied or by the date that is exactly 9 months after the adoption of this Ordinance, whichever date comes first. The number of occupants of a Recovery residence may not exceed the maximum number allowed under this Code of Ordinance or the number authorized under the Recovery residence's state certification or license, whichever is less.

Sec. 4.07. - Convenience Stores with Fueling Stations.

4.07.01. *Special exception required.* In the COM-1 District, a special exception for the use is required in accordance with the procedure as outlined in Chapter 2 if subject property is within 500 feet of any residential property.

4.07.02. *Fueling positions limitations.*

A. Within the COM-1 District, fueling stations are limited to a maximum of eight fueling positions.

B. Within the COM-2 District, fueling stations are limited to a maximum of 24 fueling positions.

4.07.03. *Design and installation requirements.*

A. All pump islands and canopies shall be set back a minimum distance of 20 feet from all perimeter property lines, but increased to 50 feet from property lines abutting areas zoned SFR, EST, MFR, and MHD.

B. On-site circulation shall be designed to:

1. Minimize conflicts between pedestrians and vehicles and between parked and moving vehicles;

2. Facilitate movement by tanker trucks and the safe unloading of fuels; and

3. When stacking lanes are required for car washes or drive-through facilities, stacking lanes shall be separated from parking areas and drives by using painted lines, pervious islands, landscaped islands, and/or decorative pavement.

C. All fuel dispensers shall be set back a minimum of 24 feet from any other fuel dispenser located on parallel pump islands, as well as located a minimum of 20 feet from any other fuel dispensers located along the same line of vehicular flow. Such distance shall be measured from center of fuel dispenser to center of fuel dispenser.

D. At least one-half of the required parking spaces shall be directly adjacent to the principal building.

E. All gasoline tanks shall be installed underground. Upon the discontinuance of any gasoline pump island, the fuel storage tanks shall be removed.

F. The maximum canopy clearance shall be 15 feet.

G. The Land Use Administrator may allow a maximum of 50 percent of the fueling position spaces to count toward the number of required parking spaces.

H. Lighting standards.

1. Exterior lighting shall be the minimum necessary to provide security and safety as determined by the Land Use Administrator. No more than 2.0 foot-candles of light are permitted at any property line.

2. Direct lighting sources shall be shielded or recessed. Light fixtures under a canopy shall be flush mounted. Lights shall not be mounted on the top or sides of the canopy. Drop type fixtures are prohibited.

3. The sides of the canopies shall not be illuminated, unless the illumination is part of a permitted sign.

4.07.04. *Accessory restaurant.*

A. A restaurant accessory to a convenience store shall be allowed as long as it does not exceed 30 percent of the gross floor area of the convenience store.

B. Parking for the restaurant shall be subject to the shared parking facilities requirements contained in Chapter 5.

C. An accessory restaurant with drive-through shall be subject to the drive-through facilities requirements contained in Section ~~4.09~~5.04.11.

Sec. 4.08. - Development Options.

4.08.01. *Cluster residential developments.*

A. *Purpose and intent.* The purpose of clustering or grouping residential buildings and associated permitted accessory structures is to encourage the most efficient and cost effective use of land and public facilities. In order for the cluster development option to be approved, the site plan must be shown to:

1. Provide a significant amount of the site for protected open space;

2. Protect environmentally sensitive areas of a development site and permanently preserve open space, historical, cultural, or other significant buildings, and/or land and natural features;

3. Encourage creative and flexible site design that is sensitive to the land's natural features and adapts to the natural topography;

4. Decrease or minimize nonpoint pollution impacts by reducing the amount of impervious surfaces in site development;

5. Promote cost savings in infrastructure installation and maintenance by such techniques as reducing the distance over which utilities, such as water and sewer lines, need to be

extended or by reducing the width or length of streets, and by utilizing the site's natural drainage patterns; and

6. Provide opportunities for social interaction and walking and bicycling in contiguous open space areas.

B. *Applicability and general provisions.*

1. A residential cluster development is optional and shall be permitted as of right in any residential zoning district, except in the Agriculture, Multifamily, and Mobile Home Districts.

2. All principal and accessory uses authorized in the applicable residential zoning district(s) shall be allowed in a cluster development.

C. *Specific provisions.* The following provisions shall apply to any residential cluster development, regardless of the general requirements of the applicable residential zoning district:

1. *Dimensional requirements.*

a. *Minimum size.* Minimum gross size of a cluster development shall be five acres.

b. *Width.* The minimum lot width shall conform to the requirements for the SFR-1 District.

c. *Setbacks.* The minimum setbacks shall conform to the requirements of the SFR-1 District.

d. *Height.* The height of buildings shall be a maximum 35 feet.

e. *Impervious surface ratio.* The maximum impervious surface ratio is 0.75.

2. *Perimeter buffer.* A minimum 20-foot buffer shall be located between the cluster development and any existing residential zoning district with the exception of an adjacent residential zoning district having the same density and height.

3. *Open space.*

a. At a minimum, 40 percent of gross acreage of the site shall be conveyed as common open space. However, when calculating the open space, the land area devoted to public or private vehicular streets shall not be included.

b. Open space areas shall be designated as "cluster open space" and shall indicate whether public or private on the plat.

c. The appropriateness of accessory structures will be reviewed by the Land Use Administrator and considered in terms of their enhancement of the cluster open space.

d. Accessibility to open space. The usability of cluster open space intended for recreation or public use shall be determined by whether it is contiguous and by the size, shape, topographic, and location requirements of the particular purpose proposed for the open space. Cluster open space shall be easily accessible to trail users including, but not limited to, elderly and handicapped persons, be integrated to form unbroken trail linkages between uses within the subdivision, and take advantage of opportunities to establish off-site linkages to nearby land uses, sidewalks, bikeways, and greenways.

e. Preservation of open space. Open space shall be preserved in perpetuity by use of conservation easements, deed restriction, or other means acceptable to the City.

4.08.02. *Duplex residential developments.* Duplex dwelling units under single ownership may be converted so that each unit can be owned separately utilizing one of the following processes:

A. Duplex structures may be converted to the condominium form of ownership upon approval by the Land Use Administrator. Condominium association documents shall be provided that include ownership and maintenance of common areas and utility facilities.

B. Duplex sites may be subdivided into two separate lots in accordance with Chapter 2 review procedures as long as the individual lots meet the dimensional standards of the district.

4.08.03. *Manufactured/mobile home parks.*

A. *General requirements.*

1. *Minimum size of park; permitted location.* A manufactured home park shall have a minimum of two and one-half acres. Manufactured home parks will only be permitted in the MHD District.

2. *Plans and specifications required.* Complete plans and specifications of all manufactured/mobile home parks shall be submitted to the Land Use Administrator.

B. *Development criteria.*

1. *Setbacks.* No manufactured/mobile home or attached structure shall be located closer than 25 feet to the property lines of the manufactured home park or a public right-of-way. Requirements for each manufactured/mobile home space are as follows:

a. Front yard required—Minimum of 20 feet.

b. Side yard required—Minimum of five feet.

c. Rear yard required—Minimum of 15 feet.

2. *Private streets.* No manufactured/mobile home in a park shall be allowed direct access to a public street. All lots in a manufactured home park must have access from a private street that shall comply with regulations established in Chapter 5.

3. *Buffering.* A manufactured/mobile home park shall comply with Type "A" Buffer Design Standards established in Chapter 11.

4. *Recreational area required.* Manufactured home parks with ten or more units shall retain an area of not less than five percent of the gross site area devoted to recreational facilities provided in an area accessible to all property owners.

5. *Utilities.* Each manufactured home shall be independently served by separate electric, gas, and other utility services.

6. *Off-street parking.* A minimum of one off-street parking space shall be required for each manufactured home.

7. *Fences.* If the manufactured/mobile home park management allows fences for individual lots, these fences shall comply with regulations established in Section 4.01.

8. *Storage of recreational vehicles.* Storage of recreational vehicles, boats, and boat trailers shall be allowed only on sites reserved for such storage within the manufactured/mobile home park.

9. Residential Manufactured buildings meeting the requirements of Chapter 553 of Florida Statutes shall be permitted within a manufactured/mobile home park or subdivision.

4.08.04. *Multifamily residential buildings.* The following standards apply to multifamily buildings:

A. Multifamily buildings shall be setback a minimum distance of five feet from vehicular use area.

B. There shall be a minimum distance of ten feet between buildings.

4.08.05. *Multiuse buildings.* Multiuse buildings allow residential living quarters within the same buildings as offices or retail establishments, are permitted in the OFC-1, OFC-2, COM-1, COM-2, and MPD Districts, and require special exception approval in the COM-3 District. The following standards apply to multiuse buildings:

A. Nonresidential uses shall be located on the first floor of the building and residential units shall be located above the nonresidential use.

B. The mixture of nonresidential and residential uses within the multiuse building shall be designed to minimize, to the greatest extent practicable, the potential detrimental influence of nonresidential uses on the residential uses including, but not limited to, the location of entranceways and the use of soundproofing materials to minimize noise intervention between uses.

4.08.06. *Neotraditional development.*

A. *Purpose and intent.* The purpose of a neotraditional development is to provide areas for detached single-family dwellings, duplexes, townhouses, and accessory uses in medium density neighborhoods featuring traditional design concepts and architectural themes. Features may include front porches, reduced setbacks, detached garages, alleyway access, narrower rights-of-ways, and shared parks and open spaces readily accessible to pedestrians and bicyclists. In order for the neotraditional development option to be approved, the site plan must be shown to:

1. Encourage walking and bicycling to reduce the need for local automobile trips by providing trails, bike paths, and other forms of walkable interconnectivity within and to adjacent uses.

2. Establish a specific neighborhood identity that shall consist of an overall architectural theme. Architectural themes may consist of, but not be limited to, the following:

   a. Florida vernacular.

   b. Cape cod.

   c. Mediterranean.

3. Preserve natural features and scenic areas and provide a range of residential and open space land uses within close proximity to one another within the neighborhood.

4. Promote cost savings in infrastructure installation and maintenance by such techniques as reducing the distance over which utilities, such as water and sewer lines, need to be extended or by reducing the width or length of streets.

B. *Applicability and general provisions.* A neotraditional development is optional and shall be permitted as a right in any residential zoning district, except in the Estate, Agriculture, and Mobile Home Districts. All principal and accessory uses authorized in the applicable residential zoning district(s) shall be allowed in a neotraditional development.

C. *Specific provisions.*

1. *Dimensional requirements.*

   a. *Minimum size.* Minimum gross size of a neotraditional development shall be five acres.

   b. *Width and depth.* No minimum width or depth of a lot shall apply except where abutting a development with lower density, in which case the widths/depths shall conform as closely as possible to the abutting development.

   c. *Setbacks.* No minimum setbacks shall apply; however, each lot shall conform as closely as possible to the setbacks established for the underlying zoning district and allow for parking and accessory structure requirements.

   d. *Height.* The height of buildings shall be in accordance with that of the underlying zoning district.

   e. *Impervious surface ratio.* A higher ISR shall be allowed, if determined appropriate by the Land Use Administrator; however, each lot shall conform as closely as possible to the ISR established for the underlying zoning district.

   f. *Backyard area.* Each residential dwelling unit shall have a backyard, or courtyard area.

2. *Single-family residential unit requirements.*

   a. Single-family residential units, inclusive of required porches, shall be constructed along the front setback line.

   b. Single-family units shall have an attached front porch oriented with a minimum width of 12 feet and a minimum depth of six feet.

3. *Garages.*

   a. Garages shall be separated from the main dwelling unit by a minimum distance of 12 feet, with the exception of a connecting breezeway, with a maximum width of four feet. Other than the breezeway, the garage and main dwelling unit shall be detached structures.

   b. Garages shall have a maximum building footprint of 500 square feet and a maximum height of 24 feet.

   c. Garage doors shall be oriented for access from a rear alley or a side street may provide an alternative access for corner lots.

4. *Vehicular and pedestrian access.*

   a. Sidewalks or pedestrian paths, bicycle paths, or bicycle lanes and vehicular streets shall connect all uses.

   b. A minimum of 80 percent of all streets shall connect at both ends to other streets at an intersection.

   c. All paths or trails including, but not limited to, bicycle paths or lanes, shall interconnect to form a continuous network throughout the site and to paths or trails linked to adjacent neighborhoods.

   d. Vehicular gates are prohibited on all streets, except alleys serving residential uses.

5. *Neighborhood parks.*

   a. Neighborhood parks shall be located and distributed so that 100 percent of all dwelling units are located within 1,320 linear feet from a park or other recreation area.

   b. The minimum pervious area of a park shall be 50 percent.

   c. For pedestrian access, a minimum of 25 percent of an activity-based neighborhood park perimeter shall abut a street, excluding alley.

6. *On-street parking.*

   a. On-street parallel parking shall be required on the local residential streets.

   b. Parallel parking spaces shall have a minimum length of 23 feet and a minimum width of ten feet.

   c. Each parking space shall be clearly delineated by pavement striping per City standards.

   d. Between every five parallel parking spaces, a vehicular use area island shall be required per City standards.

   e. Parallel parking spaces shall be located no closer than 28 feet from the last stall to the intersection.

4.08.07. *Townhouse residential developments.* The following standards apply to townhouse buildings:

A. A minimum of three attached units and a maximum of eight attached units per building are permissible.

B. If rear alleyway access is provided, it is permissible to construct attached garages and detached garages that meet the standards of the neotraditional development option (refer to Section 4.08). In these cases, the rear setback may be decreased to five feet.

Sec. 4.09 - Reserved.

**Editor's note—** Ord. No. 2018-21 , § 2, adopted Oct. 2, 2018, repealed § 4.09 which pertained to drive-through facilities, and derived from Ord. No. 2009-26, § 26, adopted Dec. 15, 2009. See § 5.04.11 for similar provisions.

Sec. 4.10. - Educational Facilities, Private.

A. *Setbacks.* The front, rear, and side yard setbacks shall be the same as those required for the specific district, except that when adjacent to a residential land use or zoning district there shall be a 20-foot minimum building setback.

B. *Off-street parking and loading—School bus and vehicular drop-off facilities*. Facilities must be provided for off-street bus and private vehicle loading and unloading of students. Use of the street right-of-way may be allowed if a license agreement is executed with the City.

Sec. 4.11. - Garage and Yard Sales.

Refer to Chapter 16, Article V in the City of Palm Coast Code of Ordinances.

Sec. 4.12. - Home ~~Occupations~~ based Businesses.

4.12.01. *Purpose and intent.* ~~The purpose and intent of the home occupation regulations is to reasonably allow for a home to be used as a "doing business address" for low impact business activities from the home while ensuring that they are limited and controlled so they do not negatively impact the residential areas where they are located. Home occupations are limited by performance standards, requirements, and prohibitions. Procedures related to applications, evaluations, approvals, inspections, and revocations provide controls to ensure the home occupations do not adversely impact surrounding properties.~~ The purpose and intent of this section is to provide regulations for home-based businesses that are consistent with all provisions of F.S. § 559.955, as may be amended. The provisions of F.S. § 559.955 are incorporated into this section as if fully laid out herein, may be enforced pursuant to the City's Code of Ordinances: Chapter 2 - Article V and shall prevail in the event of a conflict with this section.

4.12.02. ~~*Classifications.* Home occupations are categorized into three classes as follows:~~ *Home-based Business Criteria.* A home-based business must operate, in whole or in part, from a residential property and must meet the below criteria:

A. *Employees.* The employees of the business who work at the residential dwelling must also reside in the residential dwelling, except that up to a total of two employees or independent contractors who do not reside at the residential dwelling may work at the business. The business may have additional remote employees that do not work at the residential dwelling. ~~*Class 1.* Class 1 Home Occupations are limited, in-home business offices that are indistinguishable from activities associated with any typical office employee bringing home work outside of regular business hours. Class 1 Home Occupations utilize a single room in the residence where information-oriented business activities are limited to paperwork, computer, mail, telephone, and filing. Although home storage of a single vehicle used for business purposes is acceptable, Class 1 Home Occupations do not allow for on-site storage of any inventory, trailers, or mechanical equipment used for home occupation activities.~~

B. *Parking and storage.* ~~*Class 2.* Class 2 Home Occupations are in-home business offices that have the potential to create some impacts beyond Class 1 activities due to limited on-site~~

~~storage of material, inventory, chemicals, work vehicles, trailers, equipment, limited product assembly, or business-related traffic from customers or deliveries. Businesses among those typically classified as Class 2 Home Occupations include offices for subcontractors or lawn services where work vehicles, equipment, and/or trailers are stored at the home. Pool cleaning services are also included if chemicals are stored at the home. Other examples include arts and crafts businesses, such as stained glass or candle making, and other businesses that involve light assembly.~~

1. Parking and/or storage shall comply with all the residential property requirements of the Land Development Code based on the underlying zoning district; and

2. The need for parking generated by the business may not be greater in volume than would normally be expected at a similar residence where no business is conducted. No more than two dedicated parking spaces for the home-based business are permitted; and

3. Vehicles and trailers used in connection with the business must be parked in legal parking spaces that are not located within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence; and

4. Not create noise, vibration, glare, fumes, odors, dust, or smoke that is detectable to the normal senses at the lot line or beyond the exterior of any common walls; and

5. No heavy equipment, as defined in F.S. 559.955(3)(b) shall be visibly stored on the property as viewed from either the street or a neighboring property.

C. *Use of Premises. ~~Class 3.~~* ~~Class 3 Home Occupations are in-home business offices that have the potential to create some impacts beyond Class 2 activities due to increases of on-site storage of material, inventory, work vehicles, trailers, equipment, or business-related traffic from customers or deliveries. Class 3 Home Occupations are permitted on large, estate-sized residential properties, including farmland, where ample buffering prevents impacts to surrounding properties. Examples of Class 3 Home Occupations are small family businesses, such as horse boarding and riding stable operations. Other examples include plant nurseries or vegetable growing operations with limited sales to the public.~~

1. As viewed from the street, the use of the residential property is consistent with the uses of the residential areas that surround the property; and

2. External modifications made to a residential dwelling to accommodate a home-based business must conform to the residential character and architectural aesthetics of the neighborhood; and

3. The home-based business may not conduct retail transactions at a structure other than the residential dwelling; however, incidental business uses and activities may be conducted at the residential property; and

4. The activities of the home-based business are secondary to the property's use as a residential dwelling.

D. *Compliance with other laws, rules, and regulations.*

1. The business activities shall comply with any relevant local or state regulations with respect to signage and equipment or processes that create noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors. Any local regulations on a business with respect to noise, vibration, heat, smoke, dust, glare, fumes, or noxious odors may not be more stringent than those that apply to a residence where no business is conducted; and

2. All business activities comply with any relevant local, state, and federal regulations with respect to the use, storage, or disposal of any corrosive, combustible, or other

hazardous or flammable materials or liquids. Any local regulations on a business with respect to the use, storage, or disposal of any corrosive, combustible, or other hazardous or flammable materials or liquids may not be more stringent than those that apply to a residence where no business is conducted; and

3. Use of the residential property for a home-based business must comply with all other applicable regulations for the zoning district.

E. *Exceptions.* This section does not supersede, amend or modify the following:

1. Any current or future declaration or declaration of condominium adopted pursuant to chapter 718, cooperative document adopted pursuant to chapter 719, or declaration or declaration of covenant adopted pursuant to chapter 720; and

2. Local laws, ordinances, or regulations related to transient public lodging establishments, as defined in s. 509.013(4)(a)1., that are not otherwise preempted under chapter 509.

~~4.12.03. *Performance standards, requirements, and prohibitions.*~~

~~A. *Home occupation requirements.* All home occupations (Class 1, 2, and 3) shall:~~

~~1. Be completely subordinate to the residential nature of the home; and~~

~~2. Not change the structural form of the home; and~~

~~3. Not create noise, vibration, glare, fumes, odors, dust, or smoke that is detectable to the normal senses at the lot line or beyond the exterior of any common walls; and~~

~~4. Not use equipment which creates off-site line voltage fluctuations or visual or audible interference with off-site radio or television receivers; and~~

~~5. Not adversely affect public safety through the storage or generation of explosive, flammable, or hazardous materials in quantities which could constitute a neighborhood danger based on the required submittal of MSDS sheets or the determination of the City Fire Marshal; and~~

~~6. The applicant shall be the primary resident of the home.~~

~~B. *Prohibited home occupations.* The following uses are prohibited home occupations; however, this list is not all-inclusive and other home occupations may be prohibited by the Land Use Administrator based upon the character and similarity of use, with the determination being subject to appeal as set forth in Chapter 2:~~

~~1. Food preparation.~~

~~2. Kennels and veterinary clinics.~~

~~3. Funeral homes.~~

~~4. Dance or exercise studios.~~

~~5. Beauty or barbershops.~~

~~6. Vehicle repair or sales.~~

~~7. Animal raising.~~

~~8. Medical/dental offices or clinics.~~

~~C. *Performance Standards.* Class 1, 2, and 3 Home Occupations are limited in accordance with the following performance standards. These limitations apply to business activities at the home related to the home occupation and are not intended to regulate business activities that occur outside of the home. Table 4-4 describes the performance standard limitations.~~

*Table 4-4: Performance Standard Limitations for Home Occupations*

| Category | Home Component | Class 1 | Class 2 | Class 3 |
|---|---|---|---|---|
| Traffic Generation | Customers | None permitted. | Maximum of one per week. | Maximum of ten per week. |
| | Deliveries | Maximum of one per week. | Maximum of two per week. | Maximum of ten per week. |
| | Employees—Either working out of the home or convening at the home at any time. | Limited to residents of the home. No outside employees are permitted to visit the home for business related purposes. | Limited to residents of the home. No outside employees are permitted to visit the home for business related purposes. | Limited to residents of the home plus a maximum of two outside employees who are not residents of the home. |
| | Other business trips | Maximum of two round trips per day. | Maximum of six round trips per day. | Maximum of the ten round trips per day. |
| Business Area and Storage | Office space | Maximum of one room. | Maximum of one room in primary residence; or business may be located in separate ancillary on-site building. | Up to 35 percent of gross floor area of primary residence; or business may be located in separate, ancillary on-site building. |
| | Storage of inventory/equipment | None permitted. | All inventory and equipment must be stored inside. A maximum of one single car stall of a garage area may be utilized. An on-site storage shed or the office may be used instead of the garage stall. | All inventory and equipment must be stored inside. Full garage area or ancillary on-site building may be utilized. |
| | Storage of chemicals | Limited to common household items, such as bleach or ammonia based cleaning products, stored in a single closet. MSDS sheets not warranted. | All chemicals must be stored inside. A maximum of one single car stall of a garage area may be utilized. An on-site storage shed may be used instead of the garage stall. MSDS sheets required. Fire extinguisher required. | All chemicals must be stored inside. Full garage area or ancillary on-site building may be utilized. MSDS sheets required. A fire extinguisher is required. |
| Vehicles and Trailers | Vehicle number and type | Maximum of one sedan, SUV, or | Maximum of one sedan, SUV, or pickup truck for business | Maximum of two vehicles for business. |

| | | | | |
|---|---|---|---|---|
| | | pickup truck for business | | |
| | Vehicle dimensions | Maximum height—seven ft. Maximum length—20 ft. | Maximum height—seven and one-half ft. Maximum length—22 ft. | Maximum height—eight ft. Maximum length—22 ft. |
| | Exterior ladders and pipe racks | None permitted. | None permitted if vehicle stored outside of garage. | Permitted. |
| | Gross vehicle weight | Maximum 8,500 lbs. | Maximum 10,500 lbs. | Maximum 20,000 lbs. |
| | Trailers | None permitted. | Maximum of one stored in garage. | Maximum of two. May be stored outside if fully screened from public right-of-way and neighboring properties. |
| Solid Waste Generation | Quantity | Maximum of one 32-gallon residential waste container per week. | Maximum of two 32-gallon residential waste containers per week. | Maximum of four 32-gallon residential waste containers per week. |
| | Hazardous | None may be disposed of at home. | None may be disposed of at home. | None may be disposed of at home. |
| Repair and Manufacturing | Repair and manufacturing | None permitted. | Limited minor repair or manufacturing activities are permitted as well as arts and crafts, hobbies, and high tech custom/precision assembly only. | Limited repair or manufacturing activities permitted. Machinery may be operated only in short bursts (defined as no longer than ten minutes per hour with cumulative maximum not to exceed one hour per day). |
| Signage | On-site | None permitted. | None permitted, although licensee may display license if required by the state. | Maximum of one sign not illuminated, limited to six square feet in size. |
| | On vehicle(s) | Any vehicle with signage not removable signage must be parked in the garage at all times. | Any vehicle with signage not removable must be parked in the garage at all times. | Permitted. |

| | | | | |
|---|---|---|---|---|
| Advertising | Advertising (includes, but not limited to, telephone directories, newspapers, print media, logos, stationery, and business cards) | Post office box number only and not a street address (unless otherwise required by state law). | Post office box number only and not a street address (unless otherwise required by state law). | May use home address. |
| Visibility | Visibility from right-of-way and neighboring properties | The home occupation shall not be visible to neighbors. No products display or any aspect of the operation shall be visible outside the dwelling unit. | The home occupation shall not be visible to neighbors. No products display or any aspect of the operation shall be visible outside the dwelling unit. | Except for the sign permitted above, the home occupation shall not be visible to neighbors. Other outdoor activities or operations shall be fully screened from neighboring properties. |

4.12.0403. *Home-based Business occupation application, evaluation, and approval procedures.*

A. *Application.* Applications for home-based businesses shall follow the same procedures for acquiring a business tax receipt as outlined in the City's Code of Ordinances: Chapter 16 – Article II – Local Business Tax Receipts and occupation approvals shall be filed on a form provided by the City. The Land Use Administrator may request additional information to ensure that all application materials are sufficient to review the request.

B. *Evaluation procedures to classify a home occupation.*

1. The Land Use Administrator shall determine the classification of the home occupation upon reviewing the application, and determine whether a special exception is required.

2. Depending upon specific impacts and the nature of the operation, the same type of business may be classified differently. For example, a landscape business where all materials, equipment, and trailer are stored offsite may qualify as a Class 1 Home Occupation. A landscape business, where the materials, equipment, and trailer are stored in the home's garage may qualify as a Class 2 Home Occupation. If the landscape business also includes a small plant nursery, it may qualify as a Class 3 Home Occupation.

C. *Approval procedures.*

1. *Permitted home occupations (not a special exceptions)*

a. A development order for a home occupation shall be granted by the Land Use Administrator for permitted home occupations that meet the requirements of this section and do not require a special exception.

b. The Land Use Administrator may add special conditions to the development order for a home occupation related to the operation of the business to ensure compliance with this Code.

c. With regard to Class 2 and Class 3 home occupation development orders, the City shall notify the owners (as listed with the Flagler County Property Appraiser) of the lots immediately abutting the lot and immediately across a road right-of-way from the licensed lot.

~~2. *Home occupation special exceptions*~~

~~a. Home occupation special exceptions shall be noticed and advertised in accordance with Chapter 2 and reviewed by the Planning and Land Development Regulation Board at a public hearing. The Planning and Land Development Regulation Board decision shall be based on the proposed home occupation's adherence to the following standards and criteria:~~

~~(1) A proposed special exception for a Class 3 Home Occupation shall comply with the majority of the Class 2 Home Occupation performance standards. A proposed special exception for a Class 2 Home Occupation shall comply with the majority of the Class 1 Home Occupation performance standards. Further, the application shall be evaluated on the applicant's ability to moderate, lessen, or mitigate for those areas where they cannot meet the Class 1 or Class 2 Home Occupation performance standards to ensure that neighboring properties will not be adversely impacted.~~

~~(2) Additional special exception criteria found in Chapter 2 may be used to evaluate a proposed home occupation, if applicable.~~

~~b. The Planning and Land Development Regulation Board may add conditions related to the unique operational characteristics of the home occupation to ensure compliance with the regulations contained in this Code. The Land Use Administrator shall incorporate these conditions into the development order for the home occupation.~~

~~3. *Development order.* A development order for the home occupation is required for the home-based business. The issuance of a business tax receipt does not imply approval of the home-based business.~~

4.12.~~05~~04. *Inspection and revocation.*

A. *Inspections.* A home ~~occupation -~~based business inspection may be conducted by the City following the issuance of a development order for a home ~~occupation -~~based business~~for any home occupation~~.

B. *Violations and revocation.*

1. The Code Enforcement Board shall determine violations, fines, or penalties for violations of this Code relating to home ~~occupations-~~based businesses. Such violations shall be treated as an unpermitted use within the zoning classification. The Code Enforcement Board shall have the authority to revoke development orders for home ~~occupations-~~based businesses.

~~2. The Planning and Land Development Regulation Board shall have the authority to revoke a special exception for a home occupation.~~

Sec. 4.13. - Houses of Worship/Religious Institutions, Civic Clubs/Fraternal Organizations, and Nonprofit Organizations.

Houses of worship/religious institutions civic clubs/fraternal organizations, and nonprofit organizations shall be allowed as specified in Table 3-4. The following conditions shall apply to these uses:

4.13.01. *Master plan for long range development.* When submitting an application to expand an existing or construct a new house of worship/religious institution, a master plan for long-range development shall be submitted, including future plans for accessory uses such as educational facilities, gymnasiums, or similar facilities.

4.13.02. *Size limitations in the COM-1 District.* Within the COM-1 District, new or expanded houses of worship/religious institutions, civic clubs/fraternal organizations, and nonprofit organizations shall not exceed 30,000 square feet of gross floor area.

Sec. 4.14. - Industrial Uses.

4.14.01. *Industrial use classifications.*

A. *Heavy Industrial (IND-2) uses.* Heavy industrial uses shall include any facility that meets at least one of the following criteria:

1. Emits 500 pounds or more per year of lead or lead compounds; or
2. Emits 100 tons per year or more of any one regulated pollutant (PM10; nitrogen oxides; sulfur dioxide; carbon monoxide; volatile organic compounds; and lead) subject to regulation under F.S. ch. 403 ; or
3. Emits ten tons or more per year of any one hazardous air pollutant (HAP) as defined by Chapter 62-210, Florida Administrative Code; or
4. Emits 25 tons or more per year of any combination of hazardous air pollutants as defined by Chapter 62-210, Florida Administrative Code; or
5. The facility would require a major source Title V air permit as required by the requirements under F.S. ch. 403 ; or
6. Bulk storage of hazardous or regulated chemicals in ~~access~~ excess of 25,000 gallons (excluding diesel and unleaded gasoline fueling facilities exclusively utilized for fueling of vehicles, public water/wastewater treatment and emergency generators); or
7. Large quantity generators of hazardous waste as regulated under Chapter 62-730, Florida Administrative Code; or
8. The following industrial uses are presumed to be considered heavy industrial based upon the above criteria: air curtain incinerators; asphalt plants; concrete batch plants; fabrication facilities (involving open air grit blasting or open air painting); phosphate/nitrate fertilizer manufacturing facilities; fiberglass products manufacturing facilities; explosive storage and or manufacturing facilities; biohazardous waste incinerator, pesticide formulation facilities; scrap yard/shredding facilities; soil remediation facilities; bulk solvent chemical storage and or processing facilities; paint/ink manufacturing facilities; secondary metals recovery or manufacturing facilities; chrome plating facilities; asbestos products fabricators; manufacturer, livestock importing/exporting facilities; and those uses listed in the IND-2 District outlined in Chapter 3, Table 3-4.

This list is not all-inclusive and other uses may be considered heavy industrial based upon the above criteria as determined by the Land Use Administrator.

B. *Light Industrial (IND-1) uses.* All other manufacturing, processing, and assembly activities not meeting one of the heavy industrial criteria listed in this Code shall be presumed to be light industrial, including those uses listed in the IND-1 District outlined in Chapter 3, Table 3-4.

C. *Approvals; permitting.* Approvals, permits, or other forms of written assurances from appropriate federal, state, or local agencies that the use is likely to meet or exceed the specified standards for dust emissions, water consumption, air quality, hazardous, and regulated waste management set forth in Chapter 10 shall be considered competent and substantial presumptive evidence that the use complies with these zoning performance standards for permitting.

4.14.02. *Industrial use performance standards.* Manufacturing, processing, and assembly operations shall meet the following performance standards. Proof of compliance shall be provided stating that all required permits for particular discharges can and will be met. All necessary environmental permits shall

be obtained. Table 4-5 depicts the required performance standards for heavy industrial and light industrial and warehousing uses:

*Table 4-5: Performance Standards for Industrial Uses*

| | **Light Industrial & Warehousing (IND 1)** | **Heavy Industrial (IND 2)** | **Application Requirements** |
|---|---|---|---|
| Lighting | Lighting shall be in accordance with Chapter 9 of the LDC | Lighting shall be in accordance with Chapter 9 of the LDC | Detail lighting plan |
| Sound<br>Measured from property line | Residential: 60 dBA (7AM—10PM) | Residential: 60 dBA (7AM—10PM) | Statement of compliance |
| | Residential: 60 dBA (10PM—7AM) | Residential: 60 dBA (10PM—7AM) | |
| | Commercial: 65 dBA (7AM—10PM) | Commercial: 65 dBA (7AM—10PM) | |
| | Commercial: 60 dBA (10PM—7AM) | Commercial: 60 dBA (10PM—7AM) | |
| | Industrial: 75 dBA (7AM—10PM) | Industrial: 75 dBA (7AM—10PM) | |
| | Industrial: 75 dBA (10PM—7AM) | Industrial: 75 dBA (10PM—7AM) | |
| Water Consumption | Consumptive Use Permit specifically approved by SJRWMD | Consumptive Use Permit specifically approved by SJRWMD | SJRWMP CUP permit submittal |
| Hazardous/Regulated Waste Management | New Large Quantity Generators of hazardous waste as regulated under Chapter 62-730, F.A.C., as amended are prohibited | All hazardous waste generators shall comply with State and Federal regulations | List of potential waste generated and anticipated amounts. |
| | New chemical containment areas to provide appropriate secondary containment | New chemical containment areas to provide appropriate secondary containment | Statement of compliance |
| | BMPs developed to prevent potential discharges of regulated substances | BMPs developed to prevent potential discharges of regulated substances | Submittal of BMP plan. |

| | | | |
|---|---|---|---|
| Electrical/Electromagnetic Interference | Use shall not cause, create or contribute Electrical/Electromagnetic Interference to adjacent properties | Use shall not cause, create or contribute Electrical/Electromagnetic Interference to adjacent properties | Statement of compliance |
| Air Quality | General Title V or non-Title V | Major Source Title V Permit under F.S. ch. 403 as amended | FDEP permit submittal |
| | Emits < 500 pounds per year of lead or lead compounds | Emits > 500 pounds per year of lead or lead compounds | FDEP Annual Operating Reports/Permits |
| | Emits < 100 tons per year of any regulated pollutant | Emits > 100 tons per year of any regulated pollutant | FDEP Annual Operating Reports/Permits |
| | Emits < 10 tons per year of any one HAP | Emits > 10 tons per year of any one HAP | FDEP Annual Operating Reports/Permits |
| | Emits < 25 tons of any combination of HAPs | Emits > 25 tons of any combination of HAPs | FDEP Annual Operating Reports/Permits |
| | BMPs to control dust | BMPs to control dust | |
| | Airborne discharges shall be minimized so as not to cause or contribute to an objectionable odor to adjacent residential areas | Airborne discharges shall be minimized so as not to cause or contribute to an objectionable odor to adjacent residential districts | Statement of compliance |
| | Regulated Pollutants shall meet federal and State air quality standards | Regulated Pollutants shall meet federal and State air quality standards | FDEP Annual Operating Reports/Permits/Monitoring |
| Storage of Hazardous or Regulated Chemicals | < 25,000 gallons permissible | Storage of Hazardous or Regulated Chemicals permissible | FDEP Registration/Inventory; Submittal of SPCC Plan |
| Fire Prevention Standards | Fire suppression devices shall be installed in accordance with City requirements | Fire suppression devices shall be installed in accordance with City requirements | Site plan and description of fire prevention measures with Fire Marshal/City approval |
| New Septic Systems | Not permissible | Not permissible | NA |

| | | | |
|---|---|---|---|
| Radioactive Materials | Fixed nuclear density gauges with sources exceeding 50 mCi prohibited | Fixed nuclear density gauges permissible | BRC radioactive material license and protection plan submittal |
| | Source material other than medical applications uses prohibited | Source material with BRC approval | BRC approval and documentation of RSO and authorized user |

Note:

Regulated pollutants = shall consist of PM10, nitrogen oxides, sulfur dioxide, carbon monoxide, volatile organic compounds, lead.

HAP (Hazardous air pollutant) = As defined by Chapter 62-210 F.A.C. as amended.

BRC = Bureau of Radiation Control

RSO = Radiation Safety Officer

Sound = The standards set forth shall not apply to emergency warning devices, lawn care equipment, or construction operations.

Storage of Hazardous or Regulated Chemicals = Aboveground and underground storage tanks regulated by FDEP and utilized for vehicular purposes are permitted in IND-1 and IND-2.

## Sec. 4.15. - Nonresidential Controlling Master Site Developments.

4.15.01. *Purpose and intent.* The purpose and intent of this section is to provide standards for a nonresidential controlling master site development. The standards will ensure internal consistency and compatibility with the character of the surrounding neighborhood. Elements of compatibility include the fundamental development pattern of the surrounding neighborhood, predominant building type, and features of site design, scale, and dimensions.

4.15.02. *Applicability.* Nonresidential controlling master site developments and large-scale commercial centers shall comply with the requirements of this section. Such developments shall be planned as a unit and at a minimum, include the following:

A. Shared parking and driveways.

B. Master stormwater facilities.

C. Master drainage system.

D. Pedestrian and vehicular connectivity between sites, structures, and uses.

E. Owners association.

F. Applicable to moderate and major development.

4.15.03. *Development standards.* In addition to the development requirements set forth in this Code, the following requirements apply to nonresidential controlling master site developments:

A. *Building setbacks.*

1. Buildings and ancillary structures within a nonresidential controlling master site development are encouraged to be constructed up to the interior lot line provided a plat has been recorded.

2. Reserved.

3. Setbacks shall be measured from project exterior boundary.

B. *Parking lot orientation.* No more than 60 percent of the off-street parking area for the entire property shall be located between the principal building(s) and the street unless the principal building(s) and/or parking lots are screened from view by abutting development (within outparcels) and additional tree plantings and/or berms.

C. *Pedestrian access.*

1. Continuous internal pedestrian walkways, no less than five feet in width, shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all principal buildings on the site. At a minimum, walkways shall connect focal points of pedestrian activity such as, but not limited to, taxi stands, street crossings, building, and store entry points and shall feature adjoining landscaped areas that include trees, shrubs, benches, flowerbeds, groundcovers, or other such materials for no less than 50 percent of their length.

2. Sidewalks, no less than five feet in width, shall be provided along the full length of each building along any facade featuring a customer entrance, and along any facade abutting public parking areas. Such sidewalks shall be located at least six feet from the facade of each building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.

3. Internal pedestrian walkways shall provide weather protection features such as awnings or porticos within ten feet of all customer entrances, constructed parallel to the facade of the building. This is not intended to extend into the driving aisles or parking areas.

4. All internal pedestrian walkways shall be distinguished from driving surfaces using durable, low-maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways. Signs shall be installed to designate pedestrian walkways.

D. *Public amenities.* A nonresidential controlling master site development shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following:

1. Patio or seating area.

2. Pedestrian plaza with benches.

3. Transportation center.

4. Window shopping walkways.

5. Outdoor play area.

6. Kiosk area.

7. Water feature.

8. Clock tower.

9. Steeple.

10. Other such focal features or amenities that, in the judgment of the Land Use Administrator based on generally accepted planning principles adequately enhance such community and public spaces.

Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the building and landscape.

E. *Outdoor storage, trash collection, and loading areas.*

1. Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public or private rights-of-way.

2. No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public or street, public sidewalk, or internal pedestrian way.

3. Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping. This is to ensure that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.

4. Areas not enclosed for the storage and sale of seasonal inventory shall be permanently defined and screened with walls or fences. Materials, colors, and designs of screening walls or fences and the cover shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the buildings.

5. Temporary sales/displays, such as Christmas trees, landscape materials, and fireworks, shall follow all requirements as outlined in this Code.

F. *Architecture.* All nonresidential controlling master site developments shall comply with architectural standards established in Chapter 13. In addition, the applicant shall provide, upon request, alternative designs or prototypes in addition to any typical corporate prototype. Alternative designs shall be provided to reflect the local character of the surrounding areas. Design templates may include, but not be limited to, Art Deco, Mediterranean, Main Street, and Green Design.

4.15.04. *Wall signage.* Signs shall be consistent and complementary in style, color, and materials to the style, color, and materials of the principal structure. Refer to Chapter 12 for sign requirements.

4.15.05. *Maintenance of property; abandonment.* During any period of vacancy following relocation of the business and prior to reuse, the vacant building shall meet the following standards:

A. All exterior surfaces shall be maintained and in good repair.

B. The exterior walls shall be maintained free from holes, rotting materials, and graffiti.

C. Roofs and buildings shall be maintained in structurally sound, safe, and weather tight conditions.

D. Window glass shall be in place and maintained in a safe and weather tight condition.

E. The grounds shall be maintained and free of trash, stored materials, inoperative or unlicensed vehicles, and equipment.

F. Accessory structures, such as fences, walls, signs, accessory buildings, or other physical improvements, shall be maintained in a safe condition and free of graffiti.

G. Outdoor sales may be permitted on a case-by-case basis in accordance with this chapter.

H. Outdoor security lighting shall be maintained and operated.

I. Landscaping shall be watered, pruned, and weeded as necessary.

(Ord. No. 2009-26, §§ 27—30, 12-15-09)

**Editor's note—** Ord. No. 2009-26, § 27, adopted December 15, 2009, changed the title of Section 4.15 from "Large-scale commercial center" to "Nonresidential controlling master site developments."

Sec. 4.16. - Marinas.

4.16.01. *General.* Except as expressly set forth in this section, no application shall be approved by the Land Use Administrator and a permit issued unless the application conforms to the requirements of this Code, and the application fees have been paid.

4.16.02. *Applicability.* When permitted as an accessory use, the marina shall be accessory to a developed use on any waterway within the district. Marinas shall be allowed as specified in Table 3-2 and Table 3-4 and subject to the following standards:

A. *Compliance with federal and state laws.* All marina facilities shall comply with all applicable federal and state laws, rules, and regulations including, but not limited to, the requirements and permits of the Florida Department of Environmental Protection, St. Johns River Water Management District, and the Army Corps of Engineers. Verification that all necessary permits and/or required studies have been obtained shall be submitted to the City prior to commencing construction activities.

B. *Live aboard watercraft prohibited.* Under no circumstances shall a vessel docked or moored off the pier at a noncommercial marina be used as a live aboard watercraft.

4.16.03. *Permit required.* Any person or entity must be issued a marina facility permit before operating a marina facility within the City.

A. Marina facility permit applications shall be considered and acted upon by the Land Use Administrator and, if applicable, the Planning and Land Development Regulation Board, subject to the terms and conditions of this Code. Marina facility permits, when approved, shall be approved in the form of a development order which may be subject to such terms and conditions as the Planning and Land Development Regulation Board or Land Use Administrator may deem appropriate consistent with the provisions of this Code. Except as provided in this section, no person may cause, suffer, or allow construction of a marina facility without first obtaining a permit from the City. Except as provided in this Code, and after issuance of a permit or permit amendment to the marina facility, no person may cause, suffer, or allow the operation of a marina facility without first obtaining from City staff a final inspection and authorization to begin operation of the marina facility as described in this Code.

B. Except as otherwise expressly stated in this Code, any person who is required by this Code to obtain a marina facility permit or permit amendment shall demonstrate compliance with the performance standards set out in this Code.

C. A person who already has a permit for a marina facility may commence emergency reconstruction of damaged marina facilities without first obtaining a permit amendment from the City, provided that written notice of the commencement of reconstruction activities is provided to the City within 72 hours of commencement of reconstruction. Within 30 working days of commencement of reconstruction, the marina facility owner shall submit an application for a marina facility permit amendment.

4.16.04. *Review authority.*

A. *Application submittal.* An application for a marina facility permit may be submitted on a form provided by the City and shall include such information as the Land Use Administrator may determine necessary.

B. *Land use administrator.* The Land Use Administrator shall perform the technical review for all marina facilities and shall have the authority to approve issuance of development orders for all noncommercial marina facilities.

C. *Planning and land development regulation board.* The Planning and Land Development Regulation Board shall receive recommendations from the Land Use Administrator for commercial marina facilities. The Planning and Land Development Regulation Board shall have the authority to approve issuance of development orders for all commercial marinas.

4.16.05. *Location and configuration.*

A. *General location standards.*

1. No marina facility shall be permitted to be located or configured to extend into navigable waters of the City to such a distance that it would constitute a navigation hazard or a flood control hindrance or would unreasonably infringe upon public legal use of and access to the water surface.

2. Marina facilities shall not be so located or configured in such a way as to potentially displace boating traffic into shallow areas.

3. In accordance with the City's wetland protection regulations and through avoidance and minimization strategies, proposed marina facilities shall demonstrate that impacts to wetlands have been avoided and/or minimized to the maximum extent practicable.

4. A marina facility site may be approved only when the applicant has demonstrated that the location has adequate depths to accommodate the proposed watercraft use. All marina facilities access shall be through existing channels or through areas greater than three feet in water depth at mean low water. If existing channel or through areas contain less than three feet of low mean water depth and dredging is required, the applicant must demonstrate that the initial dredging operations are necessary and measures were taken to avoid and minimize, to the extent practical, negative impacts to environmental resources of the City including, but not limited to, water quality, threatened and endangered species, fish, and wildlife habitat. The issuance of permits to the applicant from the Army Corps of Engineers and the St. Johns River Water Management District or Department of Environmental Protection shall satisfy the requirements of this provision.

B. *Setback requirements.* Marina facilities shall include the following minimum setbacks for structures located over or on the water surface and related facilities:

1. *Adjoining properties.* A 50-foot setback shall be established from the riparian property line of adjoining waterfront properties for marina facilities located on the Intracoastal Waterway. A 25-foot setback shall be established for other navigable waters of the City.

2. *Public water supply wells.* No commercial marina facility or marine service station shall be located within 500 feet of an existing public water supply well that is licensed and operated in accordance with all applicable law.

3. *Designated swim areas.* No marina facility structure shall be located on or over the water surface within 100 feet from any existing City designated swim area.

4. *Residentially designated property.* No commercial marina building or structures, or marine service station, shall be located within 100 feet of a residential property line, unless otherwise specified within this section of the Code.

C. *Property ownership.*

1. Marinas shall be located on and over the navigable waters of the City that are owned, leased, or otherwise controlled by the applicant, or marina owner, or operator and shall not materially and significantly interfere with established legal rights and privileges of an adjoining property

owner including, but not limited to, those conveyed through covenants, deed restrictions, easements, court judgments, or other legally binding documents.

2. The applicant or marina facility owner or operator shall provide the name and address of the owner of the lot or parcel including, but not limited to, that portion of the lot or parcel under the water surface. The applicant shall provide, at a minimum, the following documentation:

   a. An affidavit, in a form prescribed by the City, stating that the applicant owns, leases, or otherwise controls the lot or parcel over which the marina will be located.

   b. If the applicant, or marina facility owner or operator, and the property owner are different individuals or entities, documentation, such as a lease, easement, or other deed-recorded instrument, supporting applicant's claim that the applicant has the authority from the property owner to locate the marina on or over the lot or parcel.

   c. Other documentation, if required by the City, to demonstrate ownership or control, which may include a title opinion from an attorney or a title insurance commitment, if such ownership or control is questioned. Any such title opinion shall state that the attorney has reviewed the chain of title or other appropriate documents and finds that, in the attorney's professional opinion, the applicant is the owner or has the legal right to construct a marina facility on or over the lot or parcel in question.

3. Dock or slips associated with a noncommercial marina facility shall only be sold, leased, used, or otherwise conveyed to residents of the residential development associated with the noncommercial marina. Deed restrictions acceptable to the Land Use Administrator, shall be required to ensure that residents will be subject to restrictions prohibiting residents from improperly using any dock slips or the marina facility and further obligating the residents observance of all rules and policies established by this Code. Deed restrictions shall require that the marina facility be private and that ownership of the marina facility slips, at a minimum, be restricted to residents. Applicable deed restrictions shall require language that prohibits any rental of dock slips by the residents to the public at large. Unit owners may lease their slip(s) to tenants or other unit owners.

4. Docks or slips as an accessory use in the SFR, DPX, EST, AGR, and MPD zoning districts shall not be sold, leased, used, or otherwise conveyed to anyone other than the owner of the lot, parcel, or tract. If the dwelling unit is leased or rented, the dwelling unit is required to be registered with the City in which the dock or slip is automatically included as part of the registered dwelling unit as the dock or slip is an accessory use to the dwelling. Owners of the dwelling unit shall be held responsible for any vessel moored, docked, and/or stored at the dock or slip.

4.16.06. *Protection of water quality.*

A. *Water exchange and flushing action.* The following requirements apply to all marina facilities:

1. Site and design the marina facility such that wind and currents will aid in flushing of the site or renew its water regularly.

2. Site and design the marina facility such that the bottom of the marina facility and the entrance channel are not deeper than adjacent navigable water unless it can be demonstrated that it will not negatively impact flushing and water quality standards.

3. Design marina facilities with as few segments as possible to promote circulation within the basin.

4. Design and locate entrance channels to promote flushing.

5. Establish two openings, where appropriate, at opposite ends of the marina facility to promote flow through currents; provided, however, that when the establishment of two openings is not practical, as determined by the Land Use Administrator, and adequate flushing action is

demonstrated to the Land Use Administrator for the proposed number of slips, two openings shall not be required.

6. Consider other design alternatives in poorly flushed waterbodies (e.g. open marina basin over semi-enclosed design) to enhance flushing.

7. Land surface drainage patterns shall be designed with swales, contours, shallow depressions, or other acceptable water retention and treatment standards, to minimize direct runoff in surface waters.

8. The dredging of new channels to provide marine facility access to a site may be permitted if an applicant can demonstrate to the Land Use Administrator that such activities will improve or maintain surface water quality and flushing and will not cause a safety hindrance to navigation.

B. *Dredging and spoil management.*

1. An applicant must provide a description of the measures taken to avoid and minimize impacts to submerged aquatic vegetation. Submerged aquatic vegetation means shoal grass, paddle grass, star grass, Johnson's seagrass, sago pondweed, clasping-leaved pondweed, widgeon grass, manatee grass, and turtle grass. Appropriate location and complementary design of the dock facility may be necessary to protect shoreline and aquatic vegetation. Mitigation shall be consistent with federal and state regulations.

2. Dredging activities shall be conducted by a qualified contractor familiar with the applicable best management practices concerning dredging operations. All dredging activities shall obtain all necessary permits from the Florida Department of Environmental Protection, the St. Johns River Water Management District, and the Army Corps of Engineers or any other agency with applicable jurisdiction.

3. As part of the application for marina facilities, a dredging maintenance plan shall be submitted to the City. The plan shall describe best management practices, projected amount of dredge materials, and spoil disposal. The plan shall describe anticipated maintenance dredging activities and anticipated maintenance dredging intervals.

4. Dredging shall be prohibited in those special and Outstanding Florida Waters as provided for by the state unless specifically authorized by the Florida Department of Environmental Protection, the St. Johns River Water Management District, or the Army Corps of Engineers.

5. Dredge spoil shall be disposed of in upland areas as approved by applicable federal, state, and local agencies.

6. Designed engineering controls shall be utilized for marina facilities parallel to the Intracoastal Waterway to minimize maintenance dredging unless it can be clearly demonstrated to the Land Use Administrator that the proposed marina facility will not require excessive maintenance dredging. For the purposes of this Code, excessive maintenance dredging means maintaining adequate water depth at the marina facility by the use of maintenance dredging more than one time in a one-year period. In lieu of requiring engineering controls, the owner or applicant may require the utilization of shallow drafting boats. For the purposes of this Code, shallow drafting boats are designed and approved to draft less than two feet of water.

C. *Erosion, shoaling, and shoreline stabilization.*

1. Applicants proposing a marina facility must address existing and future erosion or shoaling in the proposed design. Each development order will have a general condition, which requires the applicant or owner to utilize appropriate erosion control practices and to correct any current or future adverse erosion or shoaling problems.

2. To help prevent shoreline erosion, facilities adjacent to the Intracoastal Waterway shall stabilize the shoreline through the construction of a coquina rock revetment or other suitable material running the length of the shoreline. The revetment work shall occur above the mean high waterline. If necessary, submerged bulkheads shall be installed parallel to the Intracoastal Waterway to alleviate shoreline erosion and prevent excessive shoaling.

4.16.07. *Design of marina facilities.*

A. *Dimensional standards.*

1. The width of a marina facility, inclusive of all structures, shall not exceed 75 percent of the width of the owner's waterfront property line. Newly created shoreline associated with internal basins may be fully developed with marina facilities provided additional marina facilities are not developed in areas along the Intracoastal Waterway abutting a newly created internal basin. Existing vegetative and environmental features of the area immediately abutting the Intracoastal Waterway shall be preserved to the greatest extent feasible in accordance with the City's tree preservation regulations.

2. Total dock surface area shall not exceed ten square feet per linear foot of the applicant's waterfront property line. Calculations for dock surface area shall include gazebos, access walkways, platforms, catwalks, and other associated water-dependant structures. This standard may be increased to 12.5 square feet per linear foot of the owner's waterfront property line if it can be demonstrated to the Land Use Administrator that the additional coverage results in an improved structural or safety design without adverse environmental impacts.

3. Marina facility structures shall not extend further waterward from the edge of the Federal channel of the Intracoastal Waterway than as permitted by the Army Corps of Engineers or other relevant regulatory authority.

4. Walkways shall be constructed above the water level at all times and shall be structurally sound. Main walkway widths shall be a minimum of four feet wide. If significant pedestrian traffic is likely, the width shall be a minimum of six feet. Finger walkways shall be a minimum of three feet wide. Specific areas shall be designated and constructed to ensure handicap accessibility. Where practicable, dock and decking design and construction shall ensure penetration of light sufficient to support existing shallow water habitats.

5. No marina facility structure shall, at any time, extend to a height of more than 20 feet above the mean high water line. Boathouses within a marina facility shall not exceed 13 feet above the top of adjacent bulkhead or revetment and shall not exceed 18 feet above mean sea level (1929 NGVD).

6. Proposed marina facilities and associated structures shall be constructed in a visually pleasing manner as determined by the Land Use Administrator based upon generally accepted planning principles with the existing terrain and vegetation. Structures shall obstruct as little as reasonably practical scenic views from the shoreline or other navigable waters of the City. Long unbroken extensions of line shall be avoided by alleviating long monotonous structures through architectural design and by separating watercraft slips. A 15-foot no slip buffer shall be required for every 20 watercraft slips.

7. Architectural design shall consider pedestrian access to the shoreline area of the Intracoastal Waterway. Design standards shall include, but are not limited to, step-ways as well as the incorporation of raised spans in the dock design.

8. Boathouses within a marina facility shall utilize "hip" roofs and shall not be enclosed or contain walls. All marina facilities that include slips shall be consistent by either having all slips that contain boathouses or no slips that contain boathouses. Roofs for boathouses shall be of the same material and color. Roofs for any purpose other than for a boathouse or slip,

excluding gazebo type structures, may be permitted by the Land Use Administrator using the same criteria as applicable for variances.

9. Fairways shall accommodate a minimum fairway width of one time the length of the longest boat slip.

10. Channel entrances and the channel leading to a marina facility shall provide safety and ease of passage and to promote flushing. Exclusive of any docks or berths, channels and channel entrances shall be at least 40 feet wide or four times the beam of the widest watercraft berthed in the marina facility unless an adequate channel traffic control program is provided.

B. *Vehicular watercraft launching ramps.*

1. Vehicular launching ramps shall be properly placed and designed to ensure minimal impact on aquatic and terrestrial resources.

2. Vehicular launching ramp slopes shall be designed and constructed between 12 and 16 percent above the waterline and 15 to 20 percent below the waterline at mean high water.

3. If practical, launching ramps shall be paved to approximately five feet below the extreme low tide and contain a gravel shelf at the end of the ramp.

4. For safety purposes, a pier or similar structure shall be provided adjacent to the ramp for boarding and holding a boat while launching. If feasible, piers or similar structure should be provided on both sides of the ramp.

5. To provide adequate traction for vehicles, the surface of the ramp shall be scored or patterned. Deep grooves in concrete should be perpendicular to the slope of the ramp to provide adequate traction for vehicular traction.

6. Ramps shall be adequately maintained and kept free of algae growth and siltration.

7. Adequate safety lighting and appropriate warning signs are required.

C. *Safety design standards and certification.*

1. All marina facilities shall be designed and maintained in such a manner as to ensure public safety.

2. Fire suppression devices and other associated firefighting facilities shall be installed. Accommodations shall be made and approved by the Land Use Administrator to provide appropriate accessibility for firefighting response teams. Marina facilities shall be constructed in such a manner that would not increase the risk of fire to nearby residential dwellings or that would reasonably be deemed to cause an increase in fire insurance premiums of nearby structures.

3. All permit and permit amendment applications for construction or modification or expansion of a marina facility must contain a signed certification from a professional engineer or architect authorized to do business in the state of Florida. The certification must state that the civil, structural, electrical, mechanical, plumbing, and other associated systems of the marina facility are designed to ensure public safety and comply with the most recent editions of the following codes: Florida Building Code, National Electrical Code, Fire Prevention Code, and National Fire Protection Association.

4. Upon completion of construction, expansion, or modification of a marina facility, the applicant shall submit follow-up certifications (as-builts) signed by the engineer, architect, and/or master electrician stating that the construction, expansion, or modification was completed in accordance with above-referenced publications and plans submitted to and approved by the City.

5. With respect to the electrical requirements only, in lieu of an engineer's certification, a master electrician may design and certify the electrical installations and systems of a marina facility as complying with the most recent editions of the National Electrical Code.

4.16.08. *Performance standards.* All marina facilities shall be designed, constructed, and operated to protect the natural resources of the City and prevent wastewater and other pollutants from entering water. Except as otherwise expressly stated in this Code, any person who is required to obtain a marina facility permit or permit amendment shall demonstrate compliance with the performance standards set out in this section.

A. *Natural resource analysis statement.*

1. *All marina facilities.* An applicant for a marina facility permit shall prepare and submit as part of the application a natural resource analysis statement, which shall describe the following specific impacts listed below and further identify those best management practices that will be implemented by the applicant to minimize potential environmental impacts. The applicant shall use the results of the natural resource analysis statement to design and operate the marina facility with the least amount of environmental impact reasonably achievable. The applicant is encouraged to consider for inclusion those best management practices listed below after each specific impact, but may include alternative best management practices that are comparable to those listed.

   a. Solid waste collection and disposal.

   b. Litter and debris collection and disposal.

   c. Watercraft cleaning.

   d. Source pollution control.

2. *Noncommercial marinas.* An applicant for a noncommercial marina permit shall prepare and submit as part of the application, a natural resource analysis statement, which shall describe the following specific impacts listed below and further identify those best management practices that will be implemented by the applicant to minimize such impacts:

   a. Watercraft sewage management.

   b. Hazardous material storage.

3. *Commercial marinas.* An applicant for a commercial marina permit shall prepare and submit as part of the application, a natural resource analysis statement, which shall describe the following specific impacts listed below and further identify those best management practices that will be implemented by the applicant to minimize such impacts. Upon two years following application approval and construction, a commercial marina shall pursue a "Clean Marina" designation from the Department of Environmental Protection, Clean Marina Program.

   a. Watercraft sewage management.

   b. Hazardous material storage and pollution prevention.

B. *Threatened and endangered species.* All marina facilities shall comply with all applicable laws, rules, regulations, and Ordinances that relate to the protection of endangered or threatened species or species of special concern or which otherwise protect fish and wildlife.

C. *Dockmaster.* All commercial marina facilities shall provide for a dockmaster. All noncommercial marina facilities that include greater than 40 slips shall provide for a dockmaster. The purpose of the dockmaster is to oversee the proper usage of the facility and to ensure compliance with the applicable provisions and requirements of this section.

D. *Marine service station.* Marine service stations shall be permissible in commercial marinas in compliance with the following provisions:

1. All construction, components, and operational maintenance standards of marine service station fuel systems shall comply with all federal, state, and local regulations and be constructed in a manner to avoid spills. If a spill occurs, it shall be promptly reported in accordance with all federal, state, and local requirements.

2. Provide fueling stations with spill containment equipment, adequate supply of absorbent materials, and other necessary equipment to clean up any minor spills that may occur.

3. Promote the use of oil-absorbing materials in the bilge areas of all watercraft with inboard engines. Encourage the examination of these materials at least once a year and replace as necessary. Provide receptacles to recycle materials, if possible, or dispose of them in accordance with all applicable disposal laws, rules, and ordinances.

E. *Risk management for marina facilities.*

1. *Fire hazards.* No activity shall be conducted, and no materials will be stored of such a nature, or in such a manner, so as to constitute a fire hazard. When an activity is being conducted which could constitute a fire hazard, it shall be the responsibility of the party involved to have proper fire protection on the site as determined by the City Fire Marshal.

2. *Hurricane contingency plan.* Marina facilities shall prepare and make available a hurricane contingency plan, which shall include those methods to be taken to secure property and facilities at a marina facility. Commercial marinas shall provide educational materials that include procedures for securing of watercraft for those who own or rent space at the commercial marina.

3. *Lighting.* Marina facilities shall be continuously lighted from sunset to sunrise and during periods of restricted visibility.

a. The minimum safety lighting shall adequately define the presence of all structures located on or over the water surface.

b. When possible, lighting shall be so located and configured or shielded so as not to present a hazard to navigation and to minimize ambient light pollution.

c. Marina facility lighting shall be wired with a photo-electric cell-operated switch so that the lights will automatically operate.

d. All watercraft proceeding within the marina confines shall be at "idle speed - no wake", meaning a very slow speed whereby the wake or wash created by the watercraft would be minimal, and shall adhere to any limits related to manatee protection areas.

e. Personal throwable flotation devices shall be readily available on the marina facility at intervals of every 100 feet at the marina facility. Ladders shall be installed in appropriate locations and intervals to provide emergency access to the surface water within a marina facility.

F. *Prohibited acts.*

1. It is prohibited and unlawful for a watercraft to transmit stray electrical current. Compliance with this requirement will be deemed satisfied when the electrical resistance is more than 1,000 ohms as measured between the water adjacent to the watercraft and all of the three alternating current conductors at the dock end of the shore power cord. This cord, at the time of measurement, must be connected to the watercraft's alternating current terminals. The watercraft's alternating current circuit shall be switched to the "on" position and connected as for normal dockside operation.

2. If a watercraft is found by a certified electrical contractor or a certified marina electrical contractor to be producing stray current, notice shall be given to the owner and a reasonable amount of time provided to correct the problem. Notwithstanding the foregoing, the marina

owner or operator or the dockmaster shall have the authority to disconnect the watercraft from shore power immediately if the level of stray current being produced poses a real and immediate threat to personal safety or the rapid corrosion of the watercraft and/or its neighboring watercraft/structures. If the watercraft is unplugged upon discovery of the stray current, every effort will be made to promptly notify the watercraft's owner as to the action taken. The dockmaster, however, shall assume no liability whatsoever for any losses or damage suffered from the denial of shore power to a watercraft producing stray current. If the problem is not corrected in a reasonable amount of time, the dockmaster will have the right to disconnect the watercraft from shore power until corrective action is taken. If the licensee reconnects the watercraft without being fixed, for any other purpose than stray-current testing, the dockmaster may deny use of shore power. Continued reconnection to shore power, if the watercraft's ground fault has not been corrected, may result in the cancellation of the berth license agreement. Shore power cords shall be of the three wire type including a functioning ground wire with insulation types SO, ST or STO and with a wire thickness in accordance with all applicable building and safety codes. Cords that are found to be a significant hazard to personal safety shall be unplugged immediately.

3. It is prohibited and unlawful to carry, store, or transfer either gasoline or diesel onto any dock of any marina facility, except for less than 25 gallons of premixed outboard motor fuel. All other fueling shall be accomplished at a marina service station or other appropriate location.

4. It is prohibited and unlawful for an owner, operator, or person in command of any watercraft to operate or allow such watercraft to be operated within a marina facility at a speed in excess of posted limits, or in any reckless or negligent manner. Watercraft operators and owners shall be responsible for any damage or injury produced by their creation of an excessive wake within a marina facility.

5. It is prohibited and unlawful to tie up, moor, or operate a watercraft in a marina facility area in such a manner as will prevent or obstruct the passage of other watercrafts or voluntarily or carelessly sink any watercraft in any channel, or float loose timbers, logs, or piles in any channel in such a manner as to obstruct, impede, or create a menace to navigation.

6. It is prohibited and unlawful to swim, dive, water-ski, or skin dive within a marina area; provided, however, that a person may dive or skin dive for the purpose of bona fide scientific research, inspection of the marina or a watercraft, maintenance of a watercraft, or making of emergency repairs on any watercraft.

7. Live-aboard watercraft is prohibited and unlawful in a noncommercial marina facility.

8. It is prohibited and unlawful to discharge any human waste whatsoever, or any substance or material deleterious to fish, plant, or bird life from a watercraft except in a lawful manner. Waste of any nature may only be disposed of in accordance with law and it is prohibited and unlawful to dispose of waste in any manner contrary to law or in a manner that could reasonably result in adverse impact to natural resources or the public health, safety, or welfare.

9. It is prohibited and unlawful to allow a person to perform any work on, or provide any service to any licensee or watercraft within a marina for which such person receives a fee, compensation, or any other thing of value, unless such person has first paid the City's local business tax.

10. It is prohibited and unlawful to conduct any activity that endangers any endangered or threatened species or species of special concern or to threaten, harass, or endanger wildlife in a manner inconsistent with the provisions of federal and state law, regulations, or ordinances.

G. *Abandoned, derelict, and hazardous structures.*

1. No abandoned, derelict, or hazardous marina structures shall be allowed upon navigable waters of the City or shores of the City. Marina facility structures that are likely to damage private or public property or become a hazard to navigation shall not be permissible.
2. The owner, homeowners association, or other legal authority responsible for the marina facility shall be responsible for providing maintenance and repairs of the marina facility and associated structures. Structures that are found to be hazardous to the public health safety, and welfare or damaging to environmental resources, are subject to being removed following written notification by the City.
3. Refer to Palm Coast Code section entitled "Abandoned or Derelict Vessels."

4.16.09. *Inspections.*

A. *Right of entry.* Authorized agents, firefighting personnel, law enforcement officers, or employees of the City shall have the right to enter at all reasonable times in or upon any property, whether public or private, for the purpose of inspecting and investigating conditions relating to construction, modification, or operation of a marina facility or existing marina facility. The City shall not enter private property having management in residence without first notifying the management, or the person in charge at the time of the inspection, of their presence and exhibiting proper credentials. Authorized City employees shall observe the rules of the establishment being inspected concerning safety and fire protection. Nothing in this section, however, shall preclude a law enforcement officer from entering the property without notice to investigate suspected criminal activity as might otherwise be allowed under the laws of the State of Florida.

B. *Final inspection.* When a development order for a marina facility is issued in accordance with the requirements of this Code and upon completion of construction activities, the City will complete a final inspection of a marina facility to ensure that it is in compliance with all applicable regulations and construction standards, and is consistent with approved construction plans prior to operation. The following items shall be provided to the City prior to initiating a final inspection:

1. Four copies of as-builts;
2. Auto Cad format as-builts provided on a compact disc;
3. All original testing reports;
4. All federal, state, and other applicable permits or clearance letters; and
5. Certificate of completion from the engineer stating that the marina facility has been constructed per his/her signed and sealed construction plans.

4.16.10. *Exemptions.* The following are exempt from the provisions of Section 4.16:

A. Docks as an accessory use to a single-family home abutting a single-family lot.

B. Marina facilities existing, or which have not been constructed, but have received local governmental approval prior to August 19, 2008 shall be exempt from the provisions of this Code, but shall be subject to all other applicable permit requirements of any and all agencies with jurisdiction. Any modification to marina facilities to increase the existing number of slips will be subject to the provisions of this Code.

4.16.11. *Deviations and variances.*

A. *Deviations.* The Land Use Administrator may issue a deviation of up to five percent of any development standard contained herein if it is determined that the effect of the deviation is minimal or insignificant and meets the variance conditions in Subsection 4.16.11.B below. Any deviation request shall be submitted in writing and approval shall be issued in writing.

B. *Variance.* The Planning and Land Development Regulation Board shall have the power to grant a variance to the provisions of this Code where strict adherence to one or more of the standards would either: 1) result in an undue hardship demonstrated on the basis of an irregular or unusual shoreline configuration; or 2) result in marina facility design or placement which, for unintended or unanticipated reasons, does not meet the general purposes and intent of this Code. Variance requests shall be in accordance with requirements established in Chapter 2 and shall also be evaluated based upon their effects or impacts on:

1. State surface water quality standards;
2. Endangered and threatened species;
3. Navigability within the marina facility or the abutting waterbodies;
4. Abutting properties including, but not limited to, waterfront usability, views, or riparian rights;
5. The public health, safety, and welfare including, but not limited to, boater safety, the provision of fire safety mechanisms, and provision of adequate sanitary sewer facilities; and
6. The variance, if granted, shall not impair the overall purposes and intent of this Code.

(Ord. No. 2009-26, §§ 31—33, 12-15-09)

Sec. 4.17. - Outdoor Oriented Uses and Activities.

4.17.01. *Outdoor storage in SFR, EST, DPX, MHD, and MFR Districts.* Refer to Chapter 44, Article II in the City of Palm Coast Code of Ordinances.

Refer to Section 4.19 for temporary uses, i.e. special events, and seasonal promotions and sales.

4.17.02. *Outdoor storage in COM, OFC, PSP, IND, P&G, and PRS Districts.* Where outdoor storage is a principal permitted use or a regularly recurring accessory use (not including outdoor displays of merchandise) in nonresidential zoning districts the following requirements shall apply:

A. *Screening.*

1. Screening shall be attained through one of the following options:
   a. Landscape material in conjunction with a black vinyl chain link fence at least six feet in height, or more than six feet when used to screen shipping containers.
   b. Opaque fence or wall meeting the requirements outlined in Section 4.01.
   c. Architectural features consistent with all approved structures on site.
   d. An administrative waiver may be granted by the Land Use Administrator upon a finding that a natural buffer or wetland area adequately screens the area.
2. No merchandise, equipment, machinery, materials, motor vehicles, or other items (including shipping container storage areas) shall be stored above the height of the screening.

B. *Shipping container storage.* Temporary storage of shipping containers is allowed if storage is limited to a 90 calendar day period, with containers not to be replaced within 90 calendar days. Temporary areas used for shipping container storage shall be depicted on site plans. Containers shall be located a minimum of 20 feet from all building openings on a durable all weather surface and shall not be located where visible from any surrounding rights-of-way, in any driveways, fire lanes, pedestrian ways, or parking spaces required to meet the minimum standards for the site.

4.17.03. *Outdoor display of merchandise.*

A. *Outside displays.* Outside retail displays (not including seasonal promotions and sales—refer to Subsection 4.19.04) shall be permitted during normal business hours when located on the same lot as an existing retail business that is operating from an approved building provided that:

1. Outside displays are subordinate and accessory to the existing business;
2. Outside displays are conducted only by the owner or tenant leasing a unit on the site;
3. Outside displays are limited to the goods and services normally offered by the owner or tenant leasing a unit;
4. Outside displays are consistent with the zoning of that parcel;
5. Outside displays do not hinder required access to the site or create safety hazards;
6. Outside displays are located adjacent to the building and not located within any portion of the vehicular use area; and
7. The outside display area was depicted on a site plan.

B. *Vending machines.* A maximum of two vending machines per 100 feet of linear building frontage shall be permitted outside of commercial buildings provided they are located under roof, placed flush against a building wall, and do not obstruct pedestrian accessibility.

Sec. 4.18. - Recreational Vehicle Parks.

4.18.01. *Intent.* It is the intent of the City to provide for areas to be developed for the parking of recreational vehicles, travel trailers, motor homes, camping tents, and trailers occupied as a temporary living quarters in an environment that provides for recreational amenities and on-site conveniences. It is further intended that the individual spaces not be marketed or sold for individual ownership, but that the site be retained in a form of single or common ownership.

4.18.02. *Applicability.* The regulations in this section apply to all developments providing for the accommodation of transient recreational vehicles, camping tents, and trailers in zoning districts that allow such uses as permitted, limited, or special exception.

4.18.03. *Limitations.* Recreational parks are intended for temporary accommodations and shall not be developed for permanent residential use or for homesteading purposes. An occupant shall not remain in the same recreational park for a period exceeding six months in any 12-month period. Spaces shall be rented by the day, week, or month only.

4.18.04. *Permitted uses, facilities, and structures.*

A. Parking of recreational vehicles, travel trailers, motor homes, camping tents, cabins, ~~and~~ trailers, and residential manufactured buildings pursuant to Florida Statute 553.382.

B. Recreational facilities including, but not limited to, community room or center, fields and courts, playgrounds, docks, swimming pools, boat-launching areas, picnic areas, beaches, amphitheaters, outdoor pavilions, and similar facilities.

C. Shower, restroom, laundry, and maintenance facilities.

D. A central clubhouse, which may include an office, restaurant, fitness center, general store, meeting/event space, and similar uses. These types of uses shall be available to guests but may be opened to the public.~~Sale of groceries, sundries, (liquefied petroleum gas, bait, tackle, and supplies).~~

E. Management office and manager or caretaker residence.

F. The only permitted enclosed storage structure and garage facilities are those associated with the park manager or caretaker residence.

G. Free standing screen rooms and/or cabanas may be permitted if such structures are totally independent from the recreational vehicle and shall be constructed in such a manner as not to impede the immediate removal of any recreational vehicle from its designated site.

H. Concrete slabs, decks, and patios may be permitted provided such facilities are detached and structurally independent from the accompanying recreational vehicles and in no way impede the immediate removal of recreational vehicles from the site.

I. An accessory storage area for registered recreational vehicles, boats on trailers, and utility trailers belonging exclusively to park guests, provided this area does not exceed 10 percent of the overall property area. Any such area is subject to screening from public rights-of-way as required by Section 5.04.10.

J. Pet-friendly amenities, including, but not limited to, dog parks, pet wash stations, and pet-friendly designated accommodation areas.

4.18.05. *Development standards.*

A. *Size.*

1. The minimum area for a recreational park shall be three acres.

2. The minimum recreational vehicle space size shall be 30 feet by 60 feet.

3. The minimum tent or camping site size shall be 500 square feet.

4. The minimum cabin or residential manufactured building site size shall be 1,500 square feet.

B. *Setbacks.*

1. All structures shall comply with the minimum building setback requirements of the zoning district upon which the subject property is located, except that no RV, cabin, residential manufactured building, or tent space site shall be located within 30 feet of the project's perimeter.

2. All commercial structures that are accessory to the principal use shall be oriented to the interior of the recreational park.

3. When a recreational vehicle park is adjacent to an existing platted single-family residential subdivision, a minimum perimeter buffer of fifty (50) feet shall be provided between the recreational vehicle park and the adjacent residential subdivision.

C. *Building height.* The maximum building height shall be 35 feet.

D. *Utilities.*

1. Central water and sewer facilities and electricity shall be provided except for primitive campgrounds designed for tents only.

2. Dumpsters for trash and recyclables shall be located no farther than three 300 ~~[~~feet~~]~~ from any individual site.

3. Unless every recreational vehicle site has a sanitary waste outlet, a central pump-out station shall be provided.

E. *Landscaping and buffers.* Landscaping and buffers shall be required as outlined in Chapter 11.

F. *Recreation areas.* There shall be at least one active recreational area comprising at least five percent of the total land area of the project. The recreation area shall be easily accessible to all occupants of the project. Such areas shall be easily accessible to all guests and shall

not include RVs, cabins, residential manufactured buildings, tent sites, street rights-of-way, buffer strips, or storage areas.

G. *Parking.*

1. Parking for individual sites is not required to be paved. However, sufficient space shall be provided at each site to accommodate at least one vehicle.

2. Off-street parking spaces meeting the parking requirements outlined in Chapter 5 shall be provided for all other uses within the recreational vehicle park.

H. *Access.*

1. The recreational vehicle park shall be located ~~near~~ on an arterial or collector road. No entrance or exit to a recreational vehicle park shall be allowed through a residential district. Recreational vehicle parks with a combination of 100 or more recreational vehicle spaces, cabin spaces, or residential manufactured buildings shall provide a secondary access.

2. All accessory structures shall only be accessible from a street within the recreational park.

Sec. 4.19. - Temporary Uses.

The temporary uses included in this section are not meant to be all-inclusive or to address every type of use or special event that may occur from time-to-time. Uses and events not specifically included in this section shall be reviewed by the Land Use Administrator to determine if the proposed use or event is temporary and how it should be regulated. Determinations and requirements established by the Land Use Administrator may be appealed to the Planning and Land Development Regulation Board and the City Council in accordance with the appeal procedures established in Chapter 2.

4.19.01. *Construction trailers.* Construction trailers are permitted to provide contractors with a temporary shelter for office use, project management, and on-site storage of equipment in conformity with the following standards:

A. Only one temporary construction trailer per contractor for office use within the construction site is permitted. Additional trailers may be approved on a case-by-case basis as determined by the Land Use Administrator based upon clear evidence of necessity.

B. The placement of the trailer(s) on the site is subject to review and approval by the Land Use Administrator.

C. The trailer(s) shall be removed within three working days following the Land Use Administrator's acceptance of the construction completion.

D. Approved water and wastewater facilities shall be provided.

E. Pedestrian access shall be provided from the parking area to the office.

F. A fence or similar barrier shall be provided to prevent visitors and customers from entering the construction area.

G. Only one identification sign per trailer is permitted. The sign area shall not exceed six square feet.

4.19.02. *Model homes.*

A. *Intent and applicability.* This section is intended to ensure that impacts associated with model homes in residential zoning districts are temporary in nature and reasonably controlled. This section is applicable to model homes located in residential zoning districts and does not apply to model home centers located in commercially zoned areas.

B. *General.* The following are required prior to the issuance of a certificate of occupancy for a residential dwelling to be used as a model home:

1. City water and wastewater facilities shall be operating and accessible to the public.
2. Adequate fire protection shall be in place.
3. A stabilized access road shall be in place.

C. *Duration of use.* A residential dwelling unit may be used as a model for a maximum period of five years from the date the certificate of occupancy is issued. Any residential dwelling unit legally permitted as a model as of the effective date of this ordinance shall be permitted to remain as a model home until January 1, 2016.

*Permitted and prohibited activities.*

1. A model home may be used for activities typical to an "open house" for sale, including tours by a real estate agent and negotiation or execution of sales contracts for the sale of that builder's homes or products.
2. A model home shall not:
   a. Be used as a primary or secondary office for a homebuilder or real estate agent with regard to conducting business activities outside of those permitted above.
   b. Be used for storage of building materials.
3. The garage of the model home may be used as an office for sales staff if separate off-street parking is provided.
4. The garage must be equipped with a standard garage door, unless dedicated off-site parking is provided, excluding rights-of-ways.
5. If the space for the required garage has been converted to space for purposes other than a garage, the space must be converted back to a residential garage and equipped with a standard garage door prior to the sale and use as a dwelling unit.

D. *Hours of operation.* A model home may be open to the public during the following time periods:

1. *Monday through Saturday:* Between the hours of 9:00 a.m. and 6:00 p.m.
2. *Sunday:* Between the hours of 12:00 noon and 5:00 p.m.
3. *Holidays:* Between the hours of 10:00 a.m. and 5:00 p.m.

E. *Signage.* Refer to Chapter 12 in this Code.

F. *Lighting.* Lighting at the sites of model homes shall be limited to interior and exterior lighting normally associated with single-family residences. Exterior flood lights may not be used.

4.19.03. *Sales trailers and leasing offices.* Temporary sales and leasing offices for residential development are allowed in any residential zoning district. In addition to applicable zoning district regulations, a temporary sales and leasing offices must comply with the following standards:

A. The development plan for the residential development shall indicate the location of the temporary sales and leasing offices.

B. Only one sales trailer shall be allowed for every 200 lots or units.

C. Temporary sales and leasing offices proposing to operate for a period of six months or less shall be skirted and landscaped. In addition, temporary sales and leasing offices remaining for a period greater than six months shall be located on a concrete slab or stem wall and shall be skirted and landscaped. Temporary sales and leasing offices may be used for a

maximum period of two years from the date the certificate of occupancy is issued. The Land Use Administrator may grant a one-year extension.

D. Pedestrian access shall be provided from the parking area to the office.

E. Parking shall be provided on a paved surface and shall be designed to prevent the need to back onto a street right-of-way or pedestrian-way.

F. A fence or similar barrier shall be provided to prevent visitors and customers from entering the construction area.

G. Only one identification sign per office is permitted. The sign area shall not exceed six square feet.

H. Water and wastewater facilities shall be provided.

4.19.04. *Seasonal promotions and sales.*

A. *General requirements.* Seasonal and holiday related promotions and sales including, but not limited to, Christmas tree sales, pumpkin sales, fireworks, etc., may be permitted subject to the following:

1. The use is consistent with the zoning, development, and dimensional standards of that parcel;

2. If a tent, electric, or water is used, a building permit is required;

3. All local business license taxes shall be paid;

4. The use may be permitted for a maximum period of 45 consecutive days;

5. Written, notarized permission from all owners of record of the property, or authorized agent of the owner (must provide proof of being an authorized agent), shall be submitted to the City.

6. A plan shall be submitted illustrating the location of the space for the seasonal sale and depicting, at a minimum, the following:

a. Adequate and safe ingress and egress;

b. On-site parking availability; and

c. Sanitary facilities.

7. The use does not result in the reduction of any existing parking spaces to less than the minimum number of spaces required for the primary use.

B. *Determination of additional seasonal events.* The Land Use Administrator shall determine the types of event, other than those listed herein, that constitute a seasonal holiday related promotion or sale.

4.19.05. *Special events.* Refer to the City of Palm Coast Code of Ordinances.

(Ord. No. 2009-26, § 34, 12-15-09; Ord. No. 2010-13, § 2, 10-5-10)

Sec. 4.20. - Wireless Telecommunications.

4.20.01. *Legislative purposes.*

A. The legislative purposes of this section are to:

1. Promote the health, safety, and general welfare of the public by regulating the siting of wireless communication facilities.

2. Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity and land use compatibility.

3. Establish standards for preferred siting, design and screening by requiring consistency with the City's Wireless Master Plan, consistent with the Telecommunications Act of 1996, and Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act").

4. Encourage the use of public lands, buildings, and structures as locations for wireless telecommunications infrastructure thereby establishing more ability to manage selected sites identified in the City's Wireless Master Plan.

5. Encourage coordination and collocation of antennas on existing structures to meet coverage needs and promote the efficient use of existing infrastructure.

6. Accommodate the growing need and demand for wireless communications services in a manner that ensures the placement, construction or modification of wireless communication facilities complies with all applicable state and federal laws.

7. Ensure there is sufficient wireless infrastructure to support public safety communication services throughout the City, including times of evacuation and disaster response.

8. Encourage providers of wireless communication facilities to locate wireless communication facilities in areas where the need is demonstrated and planned for and adverse impacts on the community is minimal.

9. Respond to the rational policies embodied in the Telecommunications Act of 1996 in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services.

10. Ensure that land use decisions are made in consideration of, and in compatibility with, the goals, objectives and policies of the City of Palm Coast Comprehensive Plan and its land development regulations as set forth in the Land Development Code (LDC).

B. It is the intent of this section that all actions of the City be consistent with controlling federal and state law.

C. The City Council of the City of Palm Coast hereby finds and determines that this section is consistent with the goals, objectives and policies of the City of Palm Coast Comprehensive Plan and other controlling law.

4.20.02. *Definitions.*

*Ancillary structure* means, for the purposes of this section, any form of development associated with a WCF including, but not limited to: foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports; provided, however, specifically excluding equipment cabinets.

*Antenna* means any apparatus designed for the transmitting and/or receiving of electromagnetic waves including, but not limited to: telephonic, radio or television communications. Types of elements include, but are not limited to: omni-directional (whip) antennas, sectionerized (panel) antennas, multi or single bay (FM and TV), yagi, or parabolic (dish) antennas.

*Antenna array* means a single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

*Antenna element* means any antenna or antenna array.

*Anti-climbing device* means a piece or pieces of equipment, which are either attached to an antenna support structure, or which are freestanding and are designed to prevent people from climbing the structure. These devices may include, but are not limited to, fine mesh wrap around structure legs, "squirrel-cones," or other approved devices, but excluding the use of barbed or razor wire.

*Attached WCF* means an antenna or antenna array that is secured to an existing base station with any accompanying pole or device which attaches it to the building or structure, together with transmission cables, and an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure. An attached WCF is considered to be an accessory use to the existing principal use on a site.

*Base Station* means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined herein, or any equipment associated with a tower. "Base station" includes, without limitation:

1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems ("DAS") and small-cell networks).
3. Any structure other than a tower that, at the time the relevant application is filed with the City under this subsection, supports or houses equipment described in subsections (1) and (2) of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.

The term does not include any structure that, at the time the relevant application is filed with the City under this subsection, does not support or house equipment described in subsections (1) and (2) of this definition.

*Breakpoint technology* means the engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

*Collocation* means to install, mount, maintain, modify, operate, or replace one or more wireless communication facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way. (F.S. § 337.401 (7)(b)7).

*Combined antenna* means an antenna or an antenna array designed and utilized to provide services for more than one wireless provider for the same or similar type of services.

*Concealed* means a tower, base station, ancillary structure, or equipment compound that is not readily identifiable as a wireless communication facility, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site or in the neighborhood or area. There are two types of concealed facilities:

1. Concealed base stations may include painted antenna and feed lines to match the color of a building or structure, faux parapets, windows, dormers, or other architectural features that blend with an existing or proposed [building] or structure.

2. Concealed freestanding towers which look like something else that is common in the region such as a church steeple, bell tower, clock tower, light standard, flagpole with a flag that is proportional in size to the height and girth of the tower, or tree that grows naturally or is commonly found in the area.

*Development area* means the area occupied by a WCF including, but not limited to, areas inside or under the following: an antenna-support structure's framework, equipment cabinets, ancillary structures and accessways.

*Eligible Facilities Request* means any request for modification of an existing tower or base station that, in accordance with the definitions contained in FCC regulations codified at 47 C.F.R. § 1.40001, does not substantially change the physical dimensions of the existing support structure and is requesting:

1. Collocation of new transmission equipment;
2. Removal of existing transmission equipment; or
3. Replacement of existing transmission equipment.

*Eligible support structure* means any tower or base station that is existing at the time the relevant application is filed with the City under this subsection.

*Environmentally Sensitive Lands* are as provided in Chapter 10 of the Unified Land Development Code - Environmental and Cultural Resource Protection.

*Equipment cabinet* means any structure above the base flood elevation including, but not limited to, cabinets, shelters, pedestals, and other similar structures. Equipment cabinets are used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

*Equipment compound* means the fenced area surrounding the ground-based wireless communication facility including, but not limited to, the areas inside or under the following: the tower's framework and ancillary structures such as equipment necessary to operate the antenna on the WCF that is above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures.

*Equipment facility* means a room, cabinet, shelter, pedestal, build-out of an existing structure, building, or similar structure used to house ancillary equipment for a communication tower or antenna. Each such cabinet, shelter, or building shall be considered a separate equipment facility.

*Existing* means a constructed tower or base station existing for purposes of this section that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this subsection.

*Expedited collocation application* means collocation applications, or portions thereof, on towers or base stations, excluding collocations on a historic building, structure, site, object, or district, that meet the criteria set forth in F.S. § 365.172 (13)(a), as amended.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Feed lines* means cables used as the interconnecting media between the transmission/receiving base station and the antenna.

*Flush-mounted* means any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is given, that distance shall be

measured from the outside edge of the support structure or building to the inside edge of the antenna.

*Freestanding WCF* or *collocations* means those where the antenna or antenna array is located on towers, concealed or nonconcealed, together with the ancillary structures, feed lines, equipment shelters, and other necessary facilities, which may be located either on or in the tower.

*Geographic search ring* means an area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

*Guyed structure* (see tower). Guyed structures for new WCFs are prohibited within the City.

*Handoff candidate* means a wireless communication facility that receives call transference from another wireless facility, usually located in an adjacent first "tier" surrounding the initial wireless facility.

*Lattice structure* (see Tower). Lattice structures for new WCFs are prohibited within the City.

*Least visually obtrusive profile* means the design of a wireless communication facility intended to present a visual profile that is the minimum profile necessary for the facility to properly function.

*Level I* refers to a wireless communication facility permit subject to administrative review and approval by the Land Use Administrator or designee, with no public hearing requirement.

*Level II* refers to wireless communication facility permit subject to the special exception approval process set forth in Section 2.07 of the Land Development Code, except that the application review and approval timeframes set forth in Section 4.20.10 shall apply. New towers proposed in non-Wireless Master Plan Sites shall require Level II permits. All other installations only require Level I permits.

*Micro Wireless Facility* (see Section 42-103).

*Modification* means a modification of an existing tower or base station to increase the height, or to improve its integrity, by replacing or removing one or several tower(s) located in proximity to a proposed new tower in order to encourage compliance with this section or improve aesthetics or functionality of the overall wireless network.

*Monopole structure* (see Tower).

*Non-concealed WCF* means a wireless communication facility that is readily identifiable as such and can be either freestanding or attached.

*Personal wireless service* means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the Telecommunications Act of 1996.

*Public safety communications equipment* means all communications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of the City and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

*Public View* means a non-amplified visual range of site from rights-of-way, sidewalks, adjacent properties, or other publically accessible vantage points.

*Radio frequency (RF) emissions* means any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna support structure, building, or other vertical projection.

*Radio frequency (RF) propagation* means wireless telecommunications signal service area as shown on maps.

*Satellite Earth Station* means a single or group of parabolic (or dish) antennas are mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include, but is not limited to, the associated separate equipment cabinets necessary for the transmission or reception of wireless communications signals with satellites.

*Site* means for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower, and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

*Small wireless facility* (See Section 42-103).

*Substantial Change* means a modification that substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

1. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater. Changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act;
2. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
3. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no preexisting ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
4. It entails any excavation or deployment outside the current site;
5. It would defeat the concealment elements of the eligible support structure; or
6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment; provided, however, that this limitation does not apply to any modification that is noncompliant only in a manner that would not exceed the thresholds identified in subsections (1) through (4) of this definition.

*Tower* means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. Towers do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than 20 feet. A tower may be concealed or non-concealed. Non-concealed towers include:

1. *Guyed structure* means a style of tower consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building. Guyed structures for new WCFs are prohibited within the City.
2. *Lattice structure* means a self-supporting tapered style of tower that consists of vertical and horizontal supports with multiple legs and cross-bracing, and metal crossed strips or bars to support antennas. Lattice structures for new WCFs are prohibited within the City.
3. *Monopole structure* means a style of freestanding tower consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of tower is designed to support itself without the use of guy wires or other stabilization devices. These facilities are mounted to a foundation that rests on or in the ground or on a building's roof. All feed lines shall be installed within the shaft of the structure.

*Transmission Equipment* means equipment that facilitates transmission for any FCC- licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

*WCF* (see Wireless Communication Facility).

*Wireless communication facility (WCF)* means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other personal wireless communications, as defined in the Telecommunications Act of 1996, and usually consisting of an antenna or antenna array, transmission cables, feed lines, equipment cabinets, towers, cabling, antenna brackets, and other such equipment. The following shall be deemed a wireless communication facility: new, replacement, or existing towers, government-owned towers, modified towers, collocation on existing towers or base stations, attached concealed and non-concealed antenna, dual purpose facilities, DAS, small cell, concealed towers, and non-concealed towers, so long as those facilities are used in the provision of personal wireless services as that term is defined in the Telecommunications Act.

*Wireless communications* means any personal wireless service, which includes but is not limited to, cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), unlicensed spectrum services utilizing devices described in Part 15 of the FCC's regulations (e.g., wireless internet services and paging).

*Wireless Master Plan* means the Wireless Telecommunications Master Plan developed and adopted by the City, as amended from time to time, to enforce applicable development standards, land development regulations, state law and federal law related to the deployment of wireless telecommunications infrastructure.

4.20.03. *Applicability.*

A. Except as provided in Section 4.20.04, the following shall apply to the development activities including, but not limited to, installation, construction or modification of the following wireless communications facilities:
    1. Existing towers.
    2. Proposed towers.
    3. Public towers.
    4. Replacement of existing towers.
    5. Collocation on towers and base stations.

6. Attached WCF.

7. Concealed WCF.

B. These regulations are subject to state and federal law limitations.

4.20.04. *Exempt installations.* The following uses are exempt from the provisions of this section notwithstanding any other provision of the City's land development regulations, but are subject to all applicable building code compliance and building permit reviews:

1. Non-commercial, amateur radio antennas as provided for in F.S. § 125.561 .

2. Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential districts and two meters or less in all other zoning districts and which are not greater than 20 feet above grade in residential districts and 35 feet above grade in all other zoning districts.

3. A government-owned WCF, upon the declaration of a state of emergency by federal, state, or local government, and a written determination of public necessity by the City; except that such WCF must comply with all federal and state requirements. This exemption shall terminate upon the state of emergency ending.

4. A government-owned WCF erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.

5. A temporary, commercial WCF, upon the declaration of a state of emergency by federal, state or local government, or determination of public necessity by the City, and approval by the City; except that such WCF must comply with all federal and state requirements. The exemption may be permitted by the City to continue to three months after the duration of the state of emergency.

6. A temporary, commercial WCF for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approved by the City, except that such WCF must comply with all federal and state requirements. Said WCF may be exempt for a period of up to one week after the duration of the special event.

7. Antenna support structures, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the FCC shall be regulated in accordance with federal, state and other applicable regulations.

4.20.05. *Wireless Master Plan.*

A. The City has adopted a Wireless Master Plan by Resolution of the City Council. The Wireless Master Plan identifies existing or proposed City or publicly owned sites for wireless communication infrastructure and service.

B. Design standards for proposed towers in the Wireless Master Plan shall be consistent with this Ordinance and the Wireless Master Plan but may be further detailed and addressed through the required lease terms for use of any public property.

C. The Wireless Master Plan was adopted by the City Council by Resolution No. [2018-], as may be amended by City Council resolution hereafter. And, by this reference, the Wireless Master Plan is incorporated herein.

D. The Land Use Administrator or designee may waive application requirements in Section 4.20.09 for sites within the Wireless Master Plan. The applicable requirements are listed in Section 4.20.09.

E. If an applicant receives a permit to develop a site on City-owned property, the permit shall not become effective until the applicant and the City have executed a written agreement or lease setting forth the applicable terms and provisions.

F. No permit granted under this section shall convey an exclusive right, privilege, permit, or franchise to occupy or use the publicly owned sites of the jurisdiction for delivery of wireless communications services or any other purpose.

G. No permit granted under this section shall convey any right, title or interest in the public lands, but shall be deemed a permit only to use and occupy the public lands for the limited purposes and term stated in the agreement between the lessor and lessee.

H. Sites located within the Wireless Master Plan may utilize a standard landscape plan, approved by the Land Use Administrator or designee.

I. Sites within the Wireless Master Plan may utilize alternative compliance standards to access a WCF site, if approved by the Land Use Administrator or designee.

4.20.06. *Preferred siting locations.*

A. All new WCFs and any supporting structures, except for those proposed within the public rights-of-way, shall generally adhere to the following siting preferences, in order of preference:

1. City-owned property identified in the Wireless Master Plan;
2. Other public property identified in the Wireless Master Plan;
3. Other City-owned or public property not identified in the Wireless Master Plan;
4. Privately owned property not identified in the Wireless Master Plan.

B. If the proposed location for the new WCF is not consistent with the preferred hierarchy and the Wireless Master Plan, the applicant must file relevant information as indicated in Section 4.20.09 with the siting application including, at minimum, the following:

1. An affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the geographic preferences established in the wireless master plan, wireless master plan options are not technically ~~in~~feasible, practical or justified given the location of the proposed WCF;
2. An affidavit demonstrating that the proposed site will not adversely affect existing or future single-family uses or environmentally sensitive areas and is not contrary to the City's Comprehensive Plan and Unified Land Development Code; and
3. The existing land uses of the subject and surrounding properties within 300 feet of the proposed site.

C. This section shall not be interpreted to require applicants to locate on publicly-owned sites when lease negotiation processes are prohibitively lengthy or expensive relative to those of the private sector as determined by the Land Use Administrator or designee, based upon competent substantial evidence. The applicant is considered justified in selecting a lower-ranked privately-owned property option if the government entity fails to approve a memorandum of agreement or letter of intent to lease a specified publicly-owned site within 90 days of the application date or if it is demonstrated that the proposed lease rate for the specified public-owned site significantly exceeds the market rate for comparable privately-owned sites.

4.20.07. *Permitted uses.*

A. The placement, maintenance or modification of WCFs shall be permitted only in accordance with the wireless communication permit, and the land development requirements of this Code. The placement or maintenance of wireless communication facilities in the public rights-of-way shall comply with the regulations of Chapter 42 of the Code of Ordinances:

B. Applicable permits. All applications shall meet the review timeframes as shown in Section 4.20.10.

1. Level I wireless communication facility permit. All applicable non-exempt applications to place, maintain, modify, or collocate wireless communications facilities, not subject to special exception use approval, shall be subject to administrative review and approval by the Land Use Administrator or designee, with no public hearing requirement.

2. Level II wireless communication facility permit. All applicable non-exempt applications to place, maintain, or substantially change wireless communications facilities that do not qualify for an administrative permit shall be subject to the special exception approval process set forth in Section 2.07 of the Land Development Code, except that the application review and approval timeframes set forth in Section 4.20.10 shall apply. New towers proposed in non-master planned sites shall require Level II permits. All other installations only require Level I permits.

3. Communications Rights-of-Way Permit. All non-exempt applications to place, maintain, modify, or collocate wireless communications facilities within the public rights-of-way shall be subject to the review and approval requirements set forth in Chapter 42, Code of Ordinances, and the applicable land development regulations set forth herein. Wireless communication facilities, other than small wireless facilities and micro wireless facilities, are prohibited within the public rights-of-way.

4. Eligible facilities requests. Any request for modification of an existing tower or base station involving collocation of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment that does not substantially change the physical dimensions of such tower or base station shall be reviewed and processed in accordance with the provisions set forth in Section 4.20.12.

C. Expedited collocation applications.

1. Expedited collocation applications for antenna on towers. In accordance with F.S. § 365.172 , collocation of antenna on towers, including nonconforming towers, are subject only to building-permit review, which may include a review for compliance with this section, if the applicants meet the following requirements:

a. The collocation does not increase the height of the tower to which the antennae are to be attached, measured to the highest point of any part of the tower or any existing antenna attached to the tower; and

b. The collocation does not increase the ground space area, commonly known as the compound, approved in the site plan for equipment facilities and ancillary facilities, except as allowed under this section; and

c. The collocation consists of antennas, equipment facilities, and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions, or conditions, if any, applied to the initial antennas placed on the tower and to its accompanying equipment facilities and ancillary facilities and, if applicable, applied to the tower supporting the antennas. Such regulations may include the design and aesthetic requirements but not procedural requirements, other than those authorized by this subsection, of the applicable land development code in effect at the time the initial antenna's placement was approved.

Such collocations shall not be subject to the design or placement requirements of the land development code in effect at the time of the collocation that are more restrictive than those in effect at the time of the initial antenna placement approval, to any other portion of the land development code, or to public hearing review. Such collocation applications shall be decided by the Land Use Administrator or designee.

2. Expedited collocation applications for antenna on base stations. In accordance with F.S. § 365.172 , except for an historic building, structure, site, object, or district, the following collocation applications on all other existing base stations shall be subject to no more than administrative review for compliance with this section and building permit standards if they meet the following requirements:

   a. The collocation does not increase the height;

   b. The collocation does not increase the existing ground space area, otherwise known as the compound, if any, approved in the site plan for the equipment facility and ancillary facilities.

   c. The collocation consists of antennas, equipment facility and ancillary facilities that are of a design and configuration consistent with any applicable structural or aesthetic design requirements and any requirements for location on the structure in effect at the time of approval of the structure, but not prohibitions or restrictions on the placement of additional collocations on the existing structure or procedural requirements, other than those authorized by this subsection at the time of the collocation application; and

   d. The collocation consists of antennas, equipment facility and ancillary facilities that are of a design and configuration consistent with all applicable restrictions or conditions, if any, that do not conflict with subsection (c), and were applied to the initial antennas placed on the structure and to its accompanying equipment facility and ancillary facilities and, if applicable, applied to the structure supporting the antennas.

3. If only a portion of the collocation does not meet the requirements of any of the above subsections, such as an increase in the height or a proposal to expand the ground space approved in the site plan for the equipment facility by more than 400 square feet or 50 percent, where all other portions of the collocation meet the requirements of this subsection, that portion of the collocation only may be reviewed as set forth in subsection (6) below. A collocation proposal under this subsection that increases the ground space area approved in the original site plan, for equipment facilities and ancillary facilities, by no more than a cumulative amount of 400 square feet or 50 percent of the original compound size, whichever is greater, shall require no more than administrative review for compliance with the City's regulations; including, but not limited to, land development code and building permit review; provided, however, that any collocation proposal that increases the original compound size more than such greater cumulative amount shall be reviewed as if it were a new communications facility.

4. Any existing tower, including a nonconforming tower, may be structurally modified to permit collocation, or may be replaced through no more than administrative review and building permit review, and is not subject to public hearing review, if the overall height of the tower is not increased and, if the replacement tower is a monopole tower, or if the pre-existing tower is a stealth tower, the replacement tower is a similar stealth tower.

5. The owner of the existing tower on which the proposed antennas are to be collocated shall remain responsible for compliance with any applicable condition or requirement of a permit or agreement, or any applicable condition or requirement of the land development code to which the pre-existing tower must comply, including any aesthetic requirements, provided the condition or requirement is consistent with this subsection.

6. Collocations or portions of collocations that are not exempt from this section and do not fall under the provisions of subsections 4.20.07.C(1) through (4), shall be reviewed through a full permitted use review. Those located on historic structures or in historic districts, shall be reviewed through the review processes for historic structures or districts indicated in the LDC.

4.20.08. *Development standards.*

A. *General:*

1. All development standards and land development code regulations relating to the property upon which the WCF is located shall apply. Additionally, where permitted as provided in Section 4.20.07, the following development standards apply to all attached collocations and all new, modified, or combined WCF installations. Where any environmentally sensitive lands, historic or scenic overlay districts or corridor plans also apply, the most restrictive standards shall govern.

2. Cabinets shall be provided within the principal building, behind a screen on a rooftop or on the ground within the fenced-in and screened equipment compound. This is not required if out of the public view.

3. All equipment compounds shall be enclosed with a wood/brick/masonry fence or otherwise secured and screened with opaque landscaping. Fencing shall be subject to the requirements as outlined in the LDC.

4. WCF equipment compounds shall be landscaped as required in Chapter 11 of the LDC. Wireless Master Plan sites may utilize a standard alternative landscape plan approved by the Land Use Administrator or designee.

5. Attaching commercial messages for off-site and on-site advertising to a WCF is prohibited and unlawful. The placement of a religious symbol as part of the concealment of a WCF shall not be considered prohibited commercial messages or signage. The only signage that is permitted upon a tower, equipment cabinet, or fence shall be informational, and for the purpose of identifying the tower (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable). On permitted signs which are not located on a tower, cabinet or fence, a WCF may be concealed inside such signage, provided that all applicable standards for both the signage and the concealed WCF are met.

6. Lighting on WCFs, if required by the FAA, shall not exceed the FAA minimum standards. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA to minimize the potential attraction to migratory birds. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements. Any security lighting for on-ground facilities and equipment shall be in compliance with the LDC.

7. Each WCF and its equipment compounds shall be constructed and maintained in conformance with all applicable building code requirements.

8. Equipment compounds shall not be used for the storage of any excess equipment or hazardous waste (e.g., discarded batteries). It is prohibited and unlawful to allow an outdoor storage yard in a WCF equipment compound or to use the equipment compound as habitable space.

9. The WCF shall comply with all applicable federal, state and local regulations.

10. The WCF applicant shall comply with all applicable American National Standards Institute (ANSI) standards as adopted by the FCC.

11. Each WCF shall be designed to ensure that no sound emissions from machinery, alarms, bells, buzzers, or similar noise making devised are audible beyond the perimeter of the equipment compound and shall comply with the City of Palm Coast

Code of Ordinances. Emergency backup power generators are allowed to operate in short term maintenance durations, and during power outages.

12. Building permits. A building permit shall be required for the construction, modification, and collocation of all WCFs, including any accessory structures or equipment, as provided in Section 4.20.07 above. A compliance letter from the State Historic Preservation Office of Cultural and Historic Programs of the Florida Department of State is a condition of receiving a building permit.

13. The WCF and its equipment compound shall be subject to the setbacks of the underlying zoning district. Antennas may extend a maximum of 30 inches into the setback. However, no antenna or portion of any structure shall extend into any easement.

B. *Attached WCFs:*

1. Attached WCFs may be permitted in all zoning districts. The top of the attached WCF shall not be more than 20 feet above the existing or proposed building or structure.

2. Feed lines and antennas shall be designed to architecturally match the facade, roof, wall, or structure on which they are affixed in order to blend with the existing structural design, color, and texture and in order to provide the least visually obtrusive profile.

C. *Freestanding WCFs:*

1. All new freestanding WCFs shall meet minimum lot size standards of the underlying zoning district and are subject to the LDC.

2. New freestanding towers shall be configured and located in a manner that shall minimize adverse effects including, but not limited to, visual impacts on the landscape and adjacent properties. New freestanding WCFs shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural design, height, scale, color and texture, and shall have the least visually obtrusive profile.

3. Grading shall be minimized and limited only to the area necessary for the new WCF as approved by the Land Use Administrator or designee.

4. All support structures shall be certified to comply with the safety standards contained in the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) Document 222-F, Structural Standards For Steel Antenna Towers and Supporting Structures, as amended, by a Florida professional engineer.

5. Freestanding towers may only be permitted as monopole towers. Guyed and lattice structures are prohibited, unless the applicant demonstrates to the City by clear and convincing evidence that monopole towers are not feasible to accommodate the intended uses. Freestanding monopoles are prohibited from single-family or multi-family residential districts unless the applicant can conclusively demonstrate to the satisfaction of the City that it cannot reasonably provide its service to the residential zone from outside of the district. The City shall cooperate to determine an appropriate location for the freestanding tower of an appropriate design within the residential district. The applicant shall reimburse the City for all reasonable costs incurred by the City for this cooperative determination.

6. The height of a new monopole tower shall not exceed the heights provided in the table below:

| **Freestanding Non-Wireless Master Plan Sites** |
|---|

| Zone | Maximum Height WCF |
|---|---|
| Single family Residential | Not permitted unless applicant can conclusively demonstrate to the satisfaction of the City that it cannot reasonably provide its service to the residential zone from outside of the district. |
| Multifamily Residential | Not permitted unless applicant can conclusively demonstrate to the satisfaction of the City that it cannot reasonably provide its service to the residential zone from outside of the district. |
| MPD | As determined by the MPD ordinance, unless within a Wireless Master Plan |
| All other districts | Up to 150 feet. |
| **Wireless Master Plan Sites** | |
| All districts | Up to 150 feet. |

7. In calculating the height limit, above ground foundation shall be included, but lightning rods or lights required by the FAA that do not provide any support for antennas shall be excluded. If the freestanding WCF is located within the Wireless Master Plan, the maximum height may be up to 150 feet.
8. A freestanding monopole and its equipment compound shall be subject to the land development code regulations applicable to the underlying zoning district. The minimum setback distance for a freestanding tower shall be 150 feet from any residentially zoned or platted property. Freestanding monopoles are not allowed in residentially zoned or platted property. In the event of any conflict between this section and the Land Development Code, this section shall control.
9. New towers shall maintain a galvanized gray finish or other approved contextual or compatible color and provide the least visually obtrusive profile, except as required by Federal regulations. The level of required concealment for antenna placement shall be determined based upon the visibility and location of the proposed tower and the network objectives of the desired coverage area.
10. All new or modified freestanding WCFs shall be engineered to maximize collocation.

D. *Attached Collocation or Combined WCFs:*

1. An attached collocation or combined WCF shall not increase the height of an existing tower or base station by more than 20 feet, unless required by Federal law. The maximum total height shall be 150 feet.

2. The City may require new antenna to be flush-mounted or concealed on a case by case basis, if it is determined that a practical visual and aesthetic benefit can be achieved if in the public view. If the applicant demonstrates through RF propagation analysis that flush-mounted or concealed antennas will not meet the network objectives of the desired coverage area, this requirement shall not apply. This provision does not apply to Wireless Master Plan Sites.

4.20.09. *Submittal requirements for Level I and Level II permits.*

A. *Application form.* Requests for Level I and Level II wireless communication permits shall be made only on application forms approved by the City. Applications shall contain all information required by this land development code and other City regulations, and shall be reviewed for completeness.

B. *Application materials.* In addition to the application materials specified in this code for the appropriate type of review, all applications shall provide sufficient materials (plans, graphics, narratives, or expert statements) to demonstrate compliance with all applicable requirements of this section.

1. Level I and Level II applications shall contain the following:

a. Application.

b. A site plan addressing the development standards of the LDC. If applicable, an application meeting the special exception requirements of Section 2.07 of the LDC shall be submitted.

c. An affidavit by a RF engineer demonstrating compliance with Section 4.20.05. If a non-master plan site is proposed, the affidavit must address why master plan sites are not technically feasible, practical or justified given the location of the proposed WCF communications facility.

d. FCC documentation including a copy of FCC license submittal or registration, and FCC license or registration.

e. Proposed maximum height of the WCF including, but not limited to, individual measurement of the base, the tower or base station, and lightning rod.

f. Photo-simulated post-construction renderings of the completed proposed tower, base station, equipment cabinets, and ancillary structures from locations to be determined during a mandatory pre-application conference. The renderings shall include proposed exterior paint and stain samples for any items to be painted or stained, exterior building material and roof samples. The applicant shall provide simulated photographic evidence of the proposed WCFs appearance from a maximum of four vantage points chosen by the City with consultation with the applicant.

g. If the proposed WCF is subject to FAA regulation, then, prior to issuance of a building permit, evidence of compliance with applicable FAA requirements under 14 C.F.R. § 77 et seq., as amended, together with any FAA "no hazard" determinations concerning the WCF (if applicable) shall be timely provided by the applicant to the City.

h. In order to facilitate the regulation, placement, and construction of WCFs and to ensure that all parties comply with the rules, regulations and applicable guidelines of the FCC, each owner of a WCF or applicant for a WCF shall provide an affirmative statement that it will comply with all applicable federal, state and local statutory and regulatory requirements.

i. For applications for new towers or other freestanding WCFs, as necessary to determine that there is no other existing structure that could reasonably be used for the placement of the proposed antennas, or for applications for new WCFs or attached collocations that increase the height of an existing structure, as needed to determine if the proposed height is necessary to provide the carrier's designed service, materials detailing the locations of existing WCFs to which the proposed antenna will be candidate for placement, including, but not limited to, latitude and longitude of the proposed and existing antenna. This material is not required for Wireless Master Plan sites.

j. For applications for new towers or other freestanding WCFs, as necessary to determine that there is no other existing structure that could reasonably be used for the placement of the proposed antennas, a map showing the designated search ring. This map is not required for Wireless Master Plan sites.

k. With regard to attached collocations, attached and combined WCFs, the applicant shall also submit:

   i. Certification furnished by a Florida registered professional engineer that the WCF has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.

l. With regard to freestanding concealed or non-concealed WCFs, and modification of WCFs, for non-Wireless Master Plan sites only, the applicant shall also submit:

   i. A report and supporting technical data demonstrating that all antenna attachments and collocations, including all potentially useable utility distribution poles or transmission towers and other elevated structures within the proposed geographic search ring, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons that existing facilities such as utility distribution poles and transmission towers and other elevated structures are not acceptable alternatives to a new freestanding WCF. The report regarding the adequacy of alternative existing WCFs or the mitigation of existing WCFs to meet the applicant's need or the needs of service providers indicating that no existing WCF could accommodate the applicant's proposed WCF shall demonstrate any of the following:

      a. No existing WCFs located within the geographic search ring meet the applicant's engineering requirements, and why.

      b. Existing WCFs are not of sufficient height to reasonably meet the applicant's engineering requirements, and cannot be increased in height.

      c. Existing WCFs do not have sufficient structural integrity to support the applicant's proposed WCFs and related equipment, and the existing WCF cannot be sufficiently improved.

      d. Other limiting factors that render existing WCFs unsuitable.

   ii. The applicant shall provide simulated photographic evidence of the proposed WCFs appearance from four vantage points chosen by the City with consultation with the applicant, including the facility types the applicant has considered and the impact on adjacent properties including, but not limited to:

      a. Overall height.

      b. Configuration.

c. Physical location.

d. Mass and scale.

e. Materials and color.

f. Illumination.

g. Architectural design.

This does not apply to Wireless Master Plan sites.

iii. If applicable, the applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed WCF on all adjacent properties assigned a residential land use designation or zoning district. This does not apply to Wireless Master Plan sites.

iv. A certification by a Florida professional engineer that the WCF has sufficient structural integrity to accommodate the required and a proposed number of collocations.

v. A certification by a Florida professional engineer specifying the design structural failure modes of the proposed WCF, if applicable.

vi. Identification of the proposed intended service providers of the WCF.

m. With regard to antenna element replacements.

i. Any repair or replacement of an existing antenna or antenna array with another of equal number that does not increase the number and/or size of transmission lines, and that is not readily discernibly different in size, type and appearance when viewed from ground level from surrounding properties, as reasonably determined by the City, and which will not alter the structural integrity of the support structure, is exempt from further review, provided that a notarized certification is submitted by a qualified technician stating that the replacement will not alter the structural integrity of the support structure and that any changes will not affect electrical specifications.

ii. For any repair or replacement of an existing antenna or antenna array on a WCF that changes the mechanical, structural or electrical specifications of the WCF, but does not increase the number and/or size of feed lines and does not increase the number and/or size of antenna elements to the existing WCF, the applicant must, prior to making such modifications, apply for a new building permit review for such requested changes, and, for structural changes to freestanding WCFs, shall provide, in addition to any other documentation necessary for building permit review, a stamped or sealed structural analysis of the existing freestanding WCF prepared by a Florida professional engineer indicating that the existing tower or base station as well as all existing and proposed appurtenances meets the City and Florida Building Code requirements (including, but not limited to, wind loading) for the tower or base station.

n. With regard to the replacement of or modification to an existing WCF, except a tower. The replacement of or modification to a WCF, except a tower, that results in a WCF facility not readily discernibly different in size, type and appearance, when viewed from ground level from surrounding properties, and the replacement or modification of equipment that is not visible from surrounding properties, all as reasonably determined by the Land Use Administrator, are subject only to building permit review.

2. Level II applications.

a. A completed special exception approval application, and all items required pursuant to Section 2.07, including compliance with all applicable special exception requirements.

C. *Disclosure of ownership.* A notarized affidavit from all owners having a legal, equitable, or beneficial ownership interest in the tower or base station, or privately owned real property upon which a facility is or will be located or collocated, granting permission to the applicant to locate upon such real property, or attach to the tower or base station being collocated upon or attached to.

D. *Submission of fee.* All applications must be accompanied by the permit fee as established by resolution of the City Council.

4.20.10. *Application Review Process.*

A. *A pre-application conference is required.* To minimize issues related to permit application, prior to submitting materials for a permit application, an applicant must request a pre-submittal meeting with the Land Use Administrator or designee. The City shall undertake efforts to accommodate an applicant's request for a pre-application conference within ten business days of a request.

B. *Expert review.* The City may require that all wireless communications permit applications be reviewed by a third-party consultant or expert at the expense of the applicant for compliance with the requirements set forth herein. No permit shall be issued to any applicant that has not fully reimbursed the City for the third-party review fees, which shall be limited to the specifically identified reasonable expenses incurred in the review.

C. *Application Review Timeframes: "shot clock".* The City's action on proposals to place, maintain, modify, or collocate wireless communications facilities shall be subject to the applicable standards and timeframes set out in F.S. § 365.172 , 47 U.S.C. § 1455 (a) and Orders issued by the FCC, as same may be amended from time to time. All Federal and State "shot clock" timeframe guidelines that apply to any particular permit are hereby recognized by the City, and the City will make all reasonable efforts to comply. Except for eligible facilities request applications reviewed in accordance with Section 4.20.12, the following procedures apply to installation of a new WCF or modification:

1. Notification of completeness. The Land Use Administrator or designee shall notify the applicant within 20 business days after the date the application is submitted as to whether the application is, for administrative purposes only, properly completed and has been properly submitted in accordance with the requirements set forth above. However, such determination shall not be deemed as an approval of the application. Such notification shall indicate with specificity any deficiencies which, if cured, could make the application properly completed.

2. Expedited collocation applications. The City shall grant or deny each properly completed expedited collocation application for collocation based on the application's compliance with this section, applicable provisions of the City Code and any other applicable regulations, and within the normal timeframe for a similar building permit review, but in no case later than 45 business days after the date the application is determined to be properly completed. This timeframe shall not apply to lease negotiations for collocation on City-owned property.

3. All other applications. The City shall grant or deny each properly completed application for any other non-exempt WCF, including special exception approvals and collocations that do not qualify for an expedited collocation, based on the application's compliance with this section and any other applicable law, including but not limited to the City Code, and within the normal timeframe for a similar type of review, but in no case later than

90 business days after the date the City determines the application is completed. This timeframe shall not apply to lease negotiations for wireless communications facilities on City-owned property. Collocations located on historic base stations, or within a historic district, shall be reviewed through the review processes for historic structures or districts indicated in the LDC.

4. An application is deemed submitted or resubmitted on the date the application is received by the City. If the City does not notify the applicant in writing that the application is not completed in compliance with the City's regulations within 20 business days after the date the application is initially submitted or additional information resubmitted, the application is deemed, for administrative purposes only, to be properly completed and properly submitted. However, the determination shall not be deemed as an approval of the application. If the application is not completed in compliance with the City's regulations, the City shall so notify the applicant in writing indicating with specificity any deficiencies in the required documents or deficiencies in the content of the required documents which, if cured, would make the application properly completed. Upon resubmission of information to cure the stated deficiencies, the City shall notify the applicant, in writing, within the normal timeframes of review, but in no case longer than 20 business days after the additional information is submitted, of any remaining deficiencies that must be cured. However, if applicant does not cure the application deficiencies within 20 business days after receiving the notice of deficiencies, the application shall be considered withdrawn or closed unless an extension, due to reasonable circumstances, of the time to cure is requested by the applicant prior to the expiration of the 20-day period, and such extension is granted by the Land Use Administrator or designee.

5. The timeframes specified above may be extended, but in no case longer than 90 calendar days for collocations, and 150 calendar days for new installations, and only to the extent that the application has not been granted or denied because the City's procedures generally applicable to all other similar types of applications require action by the City Council or Planning and Land Development Regulation Board, and such action has not taken place within the specified timeframes. Under such circumstances, the City Council or Planning and Land Development Regulation Board, as applicable, shall either grant or deny the application at its next regularly scheduled meeting, or, otherwise, the application shall be deemed automatically approved; accordingly, the Land Use Administrator or designee may by letter to the applicant extend the timeframe for a decision until the next available scheduled meeting date of the City Council or Planning and Land Development Regulation Board as to whether to grant or deny an application for a permit. To be effective, a waiver of the timeframes set forth herein must be voluntarily agreed to by the applicant and the City. The City may request, but not require, a waiver of the timeframes by the applicant, except that, with respect to a specific application, the City may require a one-time waiver in the case of a declared local, state, or federal emergency that directly affects the administration of all permitting activities of the City. Notwithstanding the foregoing, the City and an applicant may voluntarily agree to waive the timeframes set forth above.

D. *Appeals.* Any person aggrieved by an administrative decision rendered by the Land Use Administrator regarding the provisions of this Section 4.20 may appeal such decision to the Planning and Land Development Regulation Board in accordance Section 2.16.01 of the LDC.

4.20.11. *Interference with public safety communications.*

A. The City adopts a policy of requesting prior notification of activation or modification of WCF facilities as provided for in 47 C.F.R. § 22.973 and 47 C.F.R. § 90.675 and in accordance with those provisions, WCF providers shall notify the Land Use Administrator or designee

prior to a new site activation or existing site modification and provide the information required by the federal regulations.

B. Whenever the City has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more WCFs, the following steps shall be taken:

1. The City shall provide notification to all WCF service providers operating within 5,000 feet of the public safety communications equipment at issue, in accordance with the procedures indicated in 47 C.F.R. § 22.972 and 47 C.F.R. § 90.674, using the website www.Publicsafety800mhzinterference.com. Upon such notification, the owners shall use their best efforts to cooperate and coordinate with the City and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in 47 C.F.R. § 22.972 and 47 C.F.R. § 90.674 and following the applicable FCC adopted Best Practices Guide, as may be amended or revised by the FCC from time-to-time.

2. If any WCF owner fails to cooperate with the City in complying with the owner's obligations under this section and if the FCC makes a determination of radio frequency interference with the City public safety communications equipment, an owner who fails to cooperate and/or the owner of the WCF which caused the interference, shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the City for all reasonable costs associated with ascertaining and resolving the interference including, but not limited to, any engineering studies obtained by the City to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in 47 C.F.R. § 22.972 and 47 C.F.R. § 90.674.

4.20.12. *Eligible Facilities Requests.*

A. *Applicability and Intent.* This section implements Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act") as interpreted by the Federal Communications Commission's ("FCC") Acceleration of Broadband Deployment Report and Order dated October 21, 2014, which requires local governments to approve any eligible facilities request for modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station. This section shall apply only to eligible facilities requests for an eligible support structure that is a legal conforming or legal nonconforming structure at the time a completed eligible facilities request is submitted to the City. To the extent that the nonconforming structures and use provisions of the City of Palm Coast LDCs would operate to prohibit or condition approval of an eligible facilities request otherwise allowed under this section, such provisions are superseded by this section. This subsection shall not apply to an eligible facilities request replacement of the existing tower or base station. This subsection shall also not apply where the WCF requested to be modified is located upon a City-owned structure, or upon non-right-of-way property which is either City-owned or City-leased.

B. *Sole and Exclusive Procedure.* Except as may otherwise be provided in this section, and notwithstanding any other provisions in the City Code, the provisions of this section shall be the sole and exclusive procedure for review and approval of an eligible facilities request which the applicant asserts is subject to review under the Spectrum Act. To the extent that other provisions of the City Code establish a parallel process for review and approval of a project application for a proposed eligible facilities request, the provisions of this section shall control. In the event that an application for a project approval includes a proposal to modify an eligible support structure, and the applicant does not assert in the application that the proposal is subject to review under Section 6409 of the Spectrum Act, such proposal shall not be entitled to review under this section and may be subject to review under other applicable provisions of the City Code.

C. *Application Requirements.* No eligible facilities request shall be deemed complete unless it is in writing, accompanied by the application fee, includes the required submittals, and is attested to by the authorized person submitting the application on behalf of the applicant. The application shall be submitted on a form prepared by the City. The applicant shall be obligated to demonstrate conclusively that the proposed modification satisfies the standards set forth herein and that the modification shall meet all applicable building codes.

D. *Review of Application.* The City shall review an eligible facilities request application to determine if the proposed modification is subject to this section, and if so, if the proposed modification will result in a substantial change to the physical dimensions of an eligible support structure.

E. *Timeframe for Review.* Within 45 calendar days of the date on which an applicant submits a request seeking approval under this subsection, the City shall approve, and may not deny, an eligible facilities request, unless it determines that the application is not covered by this section or proposes a substantial change to the physical dimensions of the eligible support structure.

F. *Tolling of Timeframe for Review.* The 45-day period begins to run when the application is filed with the Land Use Administrator or designee in person during the City's regular business hours, and may be tolled only by mutual agreement, or in cases where the City determines that the application is incomplete.

1. To toll the timeframe for incompleteness, the City must provide written notice to the applicant within 30 calendar days of receipt of the application, clearly and specifically delineating all missing documents or information.

2. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the City's notice of incompleteness.

3. Following a supplemental submission, the City shall have ten calendar days to notify the applicant that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the same procedure used for the first notice of incompleteness. Except as may be otherwise agreed to by the applicant and the City, second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.

4. Notices of incompleteness from the City shall be deemed received by the applicant upon the earlier of personal service upon the applicant, three days from deposit of the notice in the U.S. Mail, postage prepaid, to the applicant, or by electronic mail if the applicant has agreed to receive notices in such a manner.

5. If after submittal of the application the applicant modifies the eligible facilities request, the modified application shall be considered a new application subject to commencement of a new application review period.

G. *Approval or Denial.* An eligible facilities request shall be approved, and an eligible facilities permit issued, upon determination by the City that the proposed modification is subject to this section and that it does not substantially change the physical dimensions of an eligible support structure. An eligible facilities request shall be denied upon determination by the City that the proposed modification is not subject to this section or will substantially change the physical dimensions of an eligible support structure.

H. *Denial.* A denial of an eligible facilities request shall be in writing and shall set forth the reasons for the denial.

I. *Remedies.* Applicant and City retain any and all remedies that are available at law or in equity and any action challenging a denial of an application or notice of a deemed approved remedy, may be brought in a court of competent jurisdiction within 30 days following the date of the denial or following the date of notification of the deemed approved remedy.

J. *Applicable Code Requirements.* Nothing in this section shall relieve the applicant from compliance with applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety. Any approved eligible facilities request may be conditioned upon compliance with such codes and other laws.

K. *Expiration of Approval.* An approved eligible facilities request shall be valid for a term of 180 days from the date of approval or the date the application is deemed approved.

L. *Not Covered as an Eligible Facilities Request.* Should the City determine that an applicant's request is not covered by Section 6409(a) of the Spectrum Act, the presumptively reasonable timeframe under 47 U.S.C. § 332(c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the City's decision that the application is not a covered request. To the extent such information is necessary, the City may request additional information from the applicant to evaluate the application under 47 U.S.C. § 332(c)(7), pursuant to the limitations applicable to other reviews under that statute.

M. *Failure to Act.* In the event the City fails to approve or deny a request under this section within the timeframe for review, accounting for any tolling, the request shall be deemed granted. The application deemed granted does not become effective until the applicant notifies the City in writing after the review period has expired, accounting for any tolling, that the application has been deemed granted.

4.20.13. *Abandonment.*WCFs and equipment compounds shall be removed, at the owner's expense, within 180 days of cessation of use, unless the abandonment is associated with a replacement antenna structure as provided in Section 4.20.09, in which case the removal shall occur within 180 days of cessation of use. An owner may apply to extend the time for removal or reactivation by submitting an application stating the reason for such extension. The City may extend the time for removal or reactivation up to 90 days upon a showing of good cause. If the WCF or antenna is not removed in accordance with the requirements of this section, the City may give notice that it will contract for removal within 60 days following written notice to the owner. Thereafter, the City may cause removal of the WCF and equipment compound with all costs being borne by the owner. The City may record a lien against the property in the amount of all costs and expenses of the City. Upon removal of the WCF, the equipment compound and the foundations, including two feet below ground level, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings or consistent with the current use of the land at the time of removal. The cost of rehabilitation shall be borne by the owner. Except as provided herein, the abandonment of WCFs within public rights-of-way shall be managed in accordance with the procedures set forth in Section 42-123, City Code of Ordinances. Any special exception approval for a WCF shall automatically expire 180 days from the date of abandonment without reactivation, or upon completion of dismantling and removal, whichever is first, or pursuant to the notice required by Section 42-123 of the City Code of Ordinances.

4.20.14. *Code enforcement.*

A. The City may enforce the provisions of this section in accordance with the provisions of applicable state law and pursue any and all available legal remedies.

B. The City shall engage in a program of periodic inspections to ensure continuing adherence to the standards of this section and to ensure that WCFs are being appropriately maintained.

4.20.15. *Compliance with state and federal regulations; preemption.* In implementing this section and the provisions set forth herein, the City shall comply with applicable state and federal regulations, and the provisions of this section shall be given force to the maximum amount and greatest extent permissible

under state and federal law. Except as authorized pursuant to state and federal law, in the event of any conflict between the terms of this section and state or federal law, state and federal law shall control. In the event any provision of this section is specifically preempted, or judicially determined to be preempted by state or federal law, then the preempted provision shall automatically be deemed null and void and the superseding provision of state or federal law shall prevail.

( Ord. No. 2018-02 , § 5(Att. A), 2-6-18; Ord. No. 2020-11 , §§ 2, 3, 10-6-20)

**Editor's note—** Ord. No. 2018-02 , § 5(Att. A), adopted Feb. 6, 2018, changed the title of § 4.20 from "Wireless Communications Facilities" to read as herein set out.

## Sec. 4.21. - Electronic Game Promotions.

4.21.01. *Purpose and intent.* In the interest of the public health, peace, safety, and general welfare of the citizens and inhabitants of the City of Palm Coast, this section is established to regulate the use of electronic means to effect giveaways through drawings by chance conducted in connection with the sale of a consumer product or service, sweepstakes, and game promotions.

4.21.02. *Separation requirements.* Establishments conducting electronic game promotions with electronic equipment on site shall not operate within 1,000 feet of a church, public park, or school, unless such establishment was in operation prior to the church, park, or school locating nearby. Distances shall be measured from property line to property line without regard to the route of travel. This subsection does not apply to de minimis activity establishments.

4.21.03. *Compliance with city and state law.* Electronic game promotions and de minimis activity establishments shall comply with Chapter 16, Article IX, in the City of Palm Coast Code of Ordinances and F.S. 166 .

(Ord. No. 2012-3, § 3, 5-1-12)

## Sec. 4.22. – Mobile Food Dispensing Vehicles and Temporary Commercial Kitchens.

4.22.01. *Purpose and Intent.* The purpose of this section is to establish operational and zoning standards for Mobile Food Dispensing Vehicles and Temporary Commercial Kitchens (MFDV) in the City in effort to be compliant with Section 509.102, Florida Statutes. The standards within this section shall apply to MFDVs in the City of Palm Coast, with the following exceptions:

A. MFDVs associated with a special event in accordance with Chapter 28, Article II - Special Events of the City's Code of Ordinances.

B. MFDVs associated with catered private events on private land where no food product, sale, or service is made available to the general public.

4.22.02. *Zoning Applicability.* MFDVs shall be permissible as depicted under LDC Section 3.03 Table 3-4. MFDVs shall be prohibited in any other zoning district. MFDV parks as a principal use shall be permitted in COM-2, COM-3, IND-1, and MPDs as determined by their Development Agreements. MFDVs as an accessory use to sites with an existing principal use shall be permitted in COM-1, COM-2, COM-3, IND-1, PSP, P&G, and MPDs as determined by their Development Agreements. The utilization of an MFDV shall be considered a customary ancillary use of sites developed as a park, performing arts center, or athletic complex within the City.

4.22.03. *Site Plan Approval.* Proposed MFDV sites developed as a principal use shall require the approval of a Technical Site Plan in accordance with LDC Section 2.11. Sites developing as an accessory

use, as allowed under Sec. 4.22.02, shall not require technical site plan approval. Rather, sites developing as an accessory use shall submit an application by the Property Owner or authorized agent on a form prescribed by the City. This application shall require a concept plan showing the location of MFDV operational area along with a statement that identifies the intended number of MFDV spaces, hours of operation, and frequency of operations.

4.22.04. *Indemnity.* MDFV sites that operate as a principal or accessory use shall submit an application by either the property owner(s) or their authorized agent. In the event that an agent other than the property owner submits the application, a notarized authorization of owner(s) shall also be submitted. The applicant by means of the application shall indemnify, defend, and hold the City harmless against all liability, claims for damages, and suits for or by reason of any injury to any person, including death, and damage to any property, arising out of or in connection with the operation of a MFDV site.

4.22.05. *Development Standards.* Proposed MFDV sites shall be subject to these supplemental development standards in addition to meeting any other applicable sections of the LDC:

A. *Principal Use.* MFDV sites developed as a principal use shall provide permanent common facilities for the use of all mobile food vendors (MFV) and/or customers. These facilities shall be permanent to the site and include accessible restrooms, dining areas, and common private refuse collection on site. Common dining areas may be either indoors or outdoors, and if developed outdoors, outdoor lighting shall be provided pursuant to LDC Section 9.08. The site may develop small outdoor recreation areas (i.e. playgrounds, splash pads, etc.) as an ancillary use to a MFDV site subject to any applicable development regulations. The site shall provide a common parking area that is separated from the vending areas, dining areas, and any provided outdoor recreation.

B. *Accessory Use.* MFDV sites developed as an accessory use shall be limited to the zoning districts identified in Sec. 4.22.02 on property that is developed with an existing conforming principal use. MFDVs shall not operate on nonconforming lots. MFDVs operating as an accessory use shall not require additional parking areas, dining areas, or restroom areas outside of those required for the principal use. In no circumstances shall their usage reduce the available parking area for the principal use below the site's required parking.

C. *Operating Hours.*

1. *As a Principal Use.* MFVs shall not offer food product, sale, or service to the general public between the hours of 2:00 a.m. and 6:00 a.m. MFDVs are not required to be removed from the parcel during this time.

2. *As an Accessory Use.* MFDVs shall not operate between the hours of 2:00 a.m. and 6:00 a.m. MFDVs shall vacate an MFDV site outside of the principal use's operating hours. The provisions of this subsection shall have the following exemptions:

i. Any MFDV that is operated on the same premises as and by a separately licensed public food service establishment may operate during the same hours of operation as the separately licensed public food service establishment that operates such mobile food dispensing vehicle or temporary commercial kitchen.

ii. Nightly removal of a MFDV is not necessary if the mobile food dispensing vehicle or temporary commercial kitchen that is operated on the same premises as and by a separately licensed public food service establishment in conjunction with Subsection 509.102(3) Florida Statutes.

D. *On-site Locational Requirements.*

1. *General.* MFDV sites shall not impact easements, wetlands, required landscape or wetland buffers, threatened or protected species, drive aisles, pedestrian sidewalks/cross walks, emergency access, fire lanes, loading zones, public rights-of-

way, or otherwise impede traffic patterns or ingress and egress to buildings and businesses. MFDVs shall be located on an impervious surface

2. *As a Principal Use.* Any ancillary recreational areas provided for MFDV sites developed as a principal use may be located on either a pervious or impervious surface and shall be enclosed by a perimeter fence in accordance with LDC Section 4.01.02 and buffered a minimum five (5) feet from any parking area or drive aisle.

3. *As an Accessory Use.* Operations of such an accessory use within a vehicular use area (such as a parking lot or internal drive aisle) shall provide on-site marking of the MFDV area with traffic cones a minimum of at least three (3) feet high every six (6) feet surrounding the area of operations. Traffic cones markings are not required in the event that the MFDV area is not in a vehicular use area on the site.

E. *Minimum Dimensional Requirements.*

1. *As a Principal Use.* MFDV sites developed as a principal use shall be limited as depicted in Table 4-7. Each MFDV operated as a principal use shall require its own space as provided in Table 4-7. Restrooms for MFDV sites developed as a principal use are required regardless of Florida Administrative Code 61C-4.010(8)(a), as that exemption is limited in scope for individual MFDVs operating in a temporary capacity and does not extend to a permanent MFDV site.

*Table 4-7: Dimensional Requirements for MFDV sites developed as Principal Use.*

| Standard | Dimension |
|---|---|
| Minimum Lot Size | 20,000 sq. ft. |
| Minimum Space per MFDV | 500 sq. ft. |
| Minimum Space length per MFDV | 25’ |
| Minimum Space width per MFDV | 20’ |
| Maximum Number of MFDV Spaces | 15 |
| Minimum MFDV Space Setbacks from Property Boundaries | As required by the underlying zoning district or MPD Development Agreement. |
| Minimum Separation Between MFDV Spaces | 10 feet |
| Minimum Parking | 2 parking spaces per MFDV + 1 space per 75 sq ft of dining areas. |
| Minimum Seating Area | 10 seats per MFDV |
| Maximum Seating Area | 30 seats per MFDV |

| | |
|---|---|
| Minimum Restroom Requirements | Refer to Florida Building Code Assembly Occupancy group for minimum restroom requirements. |

2. *As an Accessory Use.* MFDV sites developed as an accessory use shall be limited to sites developed with an existing conforming permitted principal use. Additionally, MFDV sites developed as an accessory use shall meet the minimum dimensional requirements as depicted in Table 4-8. Each MFDV operated as an accessory use shall require its own space as provided in Table 4-8.

*Table 4-8: Dimensional Requirements for MFDV sites developed as an Accessory Use.*

| Standard | Dimension |
|---|---|
| Minimum Lot Size | 20,000 sq. ft. |
| Minimum Space per MFDV | 500 sq. ft. |
| Minimum Space length per MFDV | 25’ |
| Minimum Space width per MFDV | 20’ |
| Maximum Number of MFDV Spaces | 3 |
| Minimum Setbacks from Property Boundaries | As required by the underlying zoning district or MPD Development Agreement. |
| Minimum Separation Between MFDV Space | 10 feet |

3. *Administrative Deviations.* Administrative deviations of these standards shall be subject to the approval of the Land Use Administrator pursuant to the following limitations and LDC Section 2.13. Deviations to the minimum width of an MFDV space shall be conditioned upon the space providing a minimum of a two foot increase to the minimum length of the MFDV space for every foot reduced as the minimum width is intended to provide an adequate safe space for customers to queue. Deviations increasing the maximum number of spaces shall require an increase of 10,000 sq. ft. to the minimum lot size for every additional space provided, not to exceed a maximum of five additional spaces. The minimum separation distance between MFDVs shall not be reduced, as that space is intended for fire separation purposes.

F. *Outdoor Dining and Signage.*

1. *As a Principal Use.* MFDV sites that are permitted as a principal use shall provide permanent dining areas as required in Table 4-7 above.

2. *As an Accessory Use.* An MFDV that operates as an accessory use within a vehicular use area shall not provide any outdoor dining areas, tents, or canopies. MFDVs that operate as an accessory use outside of a vehicular use area may provide temporary seating, tents, or canopies, that are removed when the MFDV ceases daily operations, subject to the approval of the property owner. Each MFDV shall be required to provide its own waste receptacle for customer use during its hours of operation. A MFDV shall be able to provide a temporary A-fame sign to be located no further than five feet from the MFDV for purposes of providing a menu board, pursuant to LDC Section 12.06.03. Any provided seating, tents, or canopies shall be fully enclosed within the approved MFDV space and setback at least five (5) feet from any adjacent vehicular use area.

G. *Fire Safety.* Obstructions shall not be placed or kept near fire hydrants, fire department inlet connections, or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately visible and accessible. A clear and unobstructed path of a width at least eight (8) feet shall be provided and maintained for access to the fire department inlet connections. All MFDVs shall have a fully charged fire extinguisher located on the premises at all times during operations.

H. *Illicit Discharge.* MFDVs shall be prohibited from discharging fat, oil, grease, or wastewater into the sanitary sewer system. Spills of oil, fuel, coolant, or similar hazardous liquids shall be immediately contained and cleaned up to minimize potential environmental impacts. Such liquids shall be prohibited from being discharged into the sanitary sewer system. Any illicit discharge shall be reported to the City of Palm Coast.

I. *Limitations and Code Enforcement.* MFDVs authorized by this section shall meet the definition of “mobile food dispensing vehicle” or “temporary commercial kitchen” as defined by Section 509.102, Florida Statutes. Further, MDFVs authorized by this section shall meet the definition of a “public food service establishment” as defined in Section 509.013, Florida Statutes. This section shall not authorize mobile vendors that provide other non-food related services. Operating a MFDV site or MFDV within the City of Palm Coast without complying with the provisions established within this section or as exempted, in subsection 4.22.01 above, shall be subject to code enforcement action pursuant to Chapter 2 Article V Division 1 – Code Enforcement Board of the City’s Code of Ordinances.

4.22.06 *Utilization MFDVs on City-Owned or Leased Land.* The City may permit the development of a MFDV site to allow for the limited operations of MFDVs on City-owned or leased land pursuant to the above regulations outside of an approved special event permit in accordance with Chapter 28, Article II – Special Events of the City’s Code of Ordinances. The operations of such a site shall be established by City operating policies which may be amended from time to time.

## Sec. 4.23. - Affordable Housing Mixed-Use Residential Development Standards.

4.23.01. Zoning applicability. Applications for the development of property pursuant to the Live Local Act shall require the site to be zoned for commercial, industrial, mixed use, or portions of Master Planned Developments that allow for commercial, industrial, or mixed uses pursuant to Florida Statutes Section 166.04151(7) as amended. Additional properties eligible for live local developments regardless of the underlying zoning district shall include properties that are owned by either the City, County, school district, or a religious institution which has been developed with a house of worship for at least 10 years prior to the proposed development. For properties not owned by the City, County, school district, or a religious institution which has been developed with a house of worship for at least 10 years prior to the proposed development shall require the site to be zoned as permitted under Table 3-4 found under Section 3.03.02. Properties developed as a house of worship seeking to apply for a live local development shall be at least

three (3) acres in size. If the City designates less than 20 percent of the land area within its jurisdiction as commercial or industrial, it must authorize a proposed development pursuant to the Live Local Act only if the proposed development is a live local mixed-used residential development (see glossary).

4.23.02. *Use of property.* Live local developments shall maintain the project as a live local mixed-use residential development and shall rent and hold available for rent no fewer than 40 percent of the dwelling units as affordable as defined in § 420.0004, Florida Statutes for rent exclusively to eligible households for the affordability period. The project shall have at least 65 percent, but no more than 70 percent of the buildable area of the property must be for residential purposes and at least 10 percent of the buildable area of the property must be for commercial or industrial use reflective of the underlying zoning district's permitted uses. In the event that the project is for a vertically mixed-use development, then the non-residential component of the project may be 33 percent of the buildable area to facilitate vertically stacking non-residential and residential uses.

4.23.03. *Development standards.* Live local mixed-use residential developments shall be subject to the requirements of the Land Development Code unless otherwise modified below:

A. Developments may utilize up to the maximum density allowed by any zoning district within the city.

B. Developments may utilize up to 150 percent of the maximum allowed floor area ratio of any zoning district within the city.

C. Developments may utilize the city's maximum allowed building height within one mile of the development. The additional setbacks for multistory buildings requirement found under Section 3.05.02(C) does not apply to developments made pursuant to the Live Local Act.

1. If the development is adjacent to a single-family residential development on two or more sides with at least 25 contiguous single-family homes, the maximum height for the development is restricted to 150 percent of the highest adjacent building, the zoning district's defined maximum height, or three stories, whichever is higher, not to exceed 10 stories.

D. Developments shall submit the residential and non-residential portions of the project concurrently within the same application to ensure the mixed-use nature of the project. If the development is phased, the non-residential portion of the project shall be constructed prior to the residential portion.

E. Developments may use vertical or horizontal mixed-used developments; however, vertically mixed-used developments are not permitted in IND-1 or IND-2 zoning districts due to potential life-safety issues that may be present when having permitted industrial uses and residential uses in the same building.

F. The development shall provide a perimeter landscape buffer as required in Section 11.03 based on its zoning district. Horizontally mixed-use developments shall provide a minimum of an internal D, E, or F landscape buffer in-between residential and nonresidential uses.

G. The non-residential component of a development shall be a principal use of the underlying zoning district and shall be designed so that it could be developed without a live local residential portion. The nonresidential component shall not be an accessory use to the residential use (such as a leasing office, but not limited to other accessory uses related to the management of a multifamily residential development).

H. A mixed-use development that includes an adult-oriented business or miniwarehouses, office warehouses and/or a self-storage facility as its nonresidential component shall be prohibited.

I. The non-residential portion of a mixed-use development shall be integrated with the residential component of the project through use of sidewalks and internal roads. The non-residential and residential components of the project shall share the same access as for the project, provided the project may require more than one point of access in accordance with Section 5.02.04.

J. Loading and unloading and refuse collection areas servicing the non-residential uses of a mixed-use development shall be located to provide the least impact to any adjacent residential community.

K. Developments that are within a one-quarter mile of a transit stop or within 600 feet of an area with available surplus parking consisting of on-street, parking lots, or parking garages that can be utilized to meet the needs of the development the minimum parking requirements are eligible for a 20 percent reduction to its parking requirements. Provided that any available surplus parking utilized is memorialized by a shared parking agreement.

L. Proposed developments on property owned by the City, County, or school district must be party to the application. If the City, County, or school district do not authorize the application then the proposed development shall not be processed.

M. Proposed developments on property that is owned by a religious institution shall be required that the religious institution is party to the application and that the house of worship on site has existed for a minimum of 10 years. Any house of worship must continue to operate on the property after the proposed development is constructed.

4.23.04. *Exemptions.*

A. The Live Local Act does not apply to properties within one-quarter mile of a runway or its extension for 10,000 feet.

B. Areas subject to land development regulations, which existed prior to July 1, 2026, that are intended to retain the open character of land, including, but not limited to, areas required for a development to meet open space or recreational level of service requirements, or park land.

C. Any portion of a property encumbered by a recorded conservation easement.

4.23.05. *Affordability period.* The affordable residential portion of the development shall be subject to a minimum affordability period of 30 years from the date of its issuance of a certificate of occupancy.

4.23.06. *Land use restriction.* Prior to the issuance of a building permit for a live local project, the property owner shall execute and deliver to the City, a land use restriction agreement (LURA) provided by the City that details the affordable housing conditions, restrictions and compliance for the development including the City' s monitoring requirements. Furthermore, as a prerequisite to the issuance of a certificate of occupancy, the LURA shall confirm the affordability period, any conditions, and restrictions of the development, and shall be recorded in the public records of Flagler County, Florida at the sole expense of the property owner.

4.23.07. *Owner responsible for income verification.* For each affordable unit, the property owner shall be responsible for accepting rental applications and determining and verifying the adjusted gross income of prospective tenants to ensure such tenants qualify as an eligible household. Adjusted gross income shall be calculated by annualizing verified sources of income for the household as the amount of income to be received by the household during the 12 months following the effective date of determination. The property owner shall submit an annual report to the City as provided in the LURA.

4.23.08. *Affordable units must be comparable in quality to the market-rate units.* The affordable units shall be intermixed with, and not segregated from any market rate units within the live local project. At all times, the affordable units must be at least reasonably comparable in terms of size, features, and number of bedrooms to the market rate units. Eligible households shall not be excluded from using common area amenities within the project.

4.23.09. *Required recordkeeping.* The property owner of a live local development shall maintain complete and accurate income records pertaining to each eligible household occupying an affordable unit. These records must be updated annually and shall be maintained for at least ten years following the date of each such record. At a minimum, property owner shall maintain the following records for each occupied affordable unit:

A. An eligible household's complete application for tenancy and related information including the name of each household member, proof of identity, and employment, income, and asset information for each household member;

B. A copy of the lease agreement listing the term of tenancy, the rent, and identifying each tenant residing in the affordable unit;

C. Verification that the household is an eligible household as defined herein; and

D. Verification that the eligible household's rent is affordable as defined herein.

4.23.10. *Annual reporting requirements.* The property owner of a live local development shall provide an annual report to the City by September 30 of each year. The annual report shall provide the following information regarding each affordable unit:

A. Unit address;

B. Number of persons residing in each affordable unit;

C. The adjusted gross income of the persons residing in the affordable unit;

D. The monthly rent charged;

E. Any other information reasonably required to ensure compliance with the Live Local Act and requested by the City.

4.23.11. *Monitoring and inspection.* The property owner of a live local development shall permit the City to inspect all records, including but not limited to financial statements and rental records, pertaining to the affordable units within the development upon reasonable notice and shall submit to the City such documentation as required by the City to document compliance with the Live Local Act. The City may, from time to time, make or cause to be made inspections of the affordable units and development rental records to determine compliance with the Live Local Act. The City shall notify the owner prior to scheduled inspections, and the owner shall make any and all necessary arrangements to facilitate the City's inspection.

(Ord. No. 2024-17, § 5, 11-12-24)

Chapter 5 - TRANSPORTATION, CONNECTIVITY, ACCESS, AND PARKING

## Sec. 5.01. - Purpose and Applicability.

5.01.01. *Purpose.* The purpose of this chapter is to establish requirements for a transportation system that operates by moving people and goods efficiently, safely, and provides a balance between mobility and accessibility.

*5.01.02. Applicability.* All development shall provide transportation, access, parking, loading, stacking, bicycle (including E-bike and micromobility), and pedestrian facilities in compliance with the standards of this chapter. All facilities shall be maintained as long as the principal use continues.

( Ord. No. 2018-21 , § 3, 10-2-18)

## Sec. 5.02. - Transportation and Connectivity.

5.02.01. *Streets.*

A. All proposed developments, except for sites developed with utility facilities such as cable substations, communication towers, etc., shall front on a paved street or paved access easement. This street, if not already paved, shall be paved by the developer from the entrance of the development to the nearest public paved street(s). The character, width, grade, and location of all streets shall conform to City standards and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Construction and material specifications for streets shall conform to the Florida Department of Transportation Standard Specifications for Road and Bridge Construction and the following:

1. The City Council may approve developer proposed private streets in residential areas via a plat approval. In such cases, all such streets shall meet all design and construction criteria of the City for public streets, and a condominium or homeowners association or equivalent shall be created with all duties and powers necessary to ensure perpetual maintenance of such private streets. All streets shall be constructed to the exterior property lines of the development unless they are permanently terminated by a cul-de-sac or an intersection with another street. Public streets shall not be gated.
2. City Council may approve developer proposed private streets in commercial or industrial areas via a plat approval. In such cases, all streets shall meet the design and construction criteria of the City for public streets unless overriding conditions, such as sharing entrances or parking areas, require different design criteria. A property owners' association or equivalent shall be created with all duties and powers necessary to ensure perpetual maintenance of such private streets.

B. The arrangement of streets in a development shall:

1. Provide efficient and orderly hierarchy of streets.
2. Conform to official plans and maps of the City.
3. Be integrated with the existing and planned street system of the surrounding area in a manner that is not detrimental to existing neighborhoods.
4. ~~Ensure that the use of local streets by through or nonresidential traffic is discouraged.~~ Ensure that the use of local streets by design discourages passby traffic.
5. Facilitate and coordinate with the future development of adjoining property of a similar character, and provide for local circulation and convenient access to neighborhood facilities.

6. Local streets shall be patterned in such a way that continuous traffic from a collector road to another collector or arterial road is discouraged. Local streets shall be designed not to function as a collector road.

7. Collector Roads shall not have residential driveway connections.

5.02.02. *Minimum right-of-way and pavement widths.* The following are the minimum right-of-way widths required for streets within the City. Developers shall dedicate sufficient land to meet the right-of-way requirement resulting from the development in accordance with a rational nexus and rough proportionality analysis. A cul-de-sac, even one with a minimally acceptable radius, does not preclude the developer from having a landscaped island within its center as long as the developer can demonstrate that the island does not impede safe turning movements for larger vehicles.

*Table 5-1: Minimum Right-of-Way Width*

| Functional Classification | Minimum Right-of-Way (ft.) |
|---|---|
| Principal Arterial | 200 |
| Minor Arterial | 120 |
| Collector/Minor Collector | 100/80 |
| Local Streets | 50 |

Note: The Land Use Administrator may approve, based upon sound and generally acceptable engineering practices and principles, narrower rights-of-way, provided utilities and sidewalks can be accommodated.

*Table 5-2: Required Right-of-Way and Pavement Width*

| Street Type | Right-of-Way In Feet | | Pavement In Feet | |
|---|---|---|---|---|
| | Urban | Rural | Urban | Rural |
| Local (> 75 lots) | 50 | 80 | 24 | 24 |
| Residential Up to 75 lots | 50 | 70 | 24 | 24 |
| Cul-de-sac (radius) | 62 | 62 | 52 | 52 |

**Note:** The Land Use Administrator may approve, based upon sound and generally acceptable engineering practices and principles, narrower rights-of-way, provided utilities and sidewalks can be accommodated.

5.02.03. *Additional right-of-way.*

A. Within the area of the setbacks required by this Land Development Code, additional right-of-way may be required to promote public safety and convenience or to ensure adequate access, circulation, and parking based upon a rational nexus and rough proportionality analysis.

B. Whenever a street is programmed for improvement (in the adopted budget and the Capital Improvements Element of the Comprehensive Plan) and the need for the improvement is due to development being approved, as determined in a rational nexus and rough proportionality analysis, the owner of the proposed development must convey necessary right-of-way to the City.

C. Where a proposed subdivision or site development abuts an existing street of inadequate right-of-way, and the need for additional right-of-way is rationally related to the development being approved, the owner of the development must convey additional right-of-way based upon a rational nexus and rough proportionality.

D. All right-of-way dedications, except easements, shall be conveyed to the City by means of a warranty deed or dedication by plat, at the City's discretion. Easements shall be conveyed to the City in a form acceptable to the City.

E. All right-of-way dedications are subject to acceptance by the City Council and/or the Land Use Administrator.

F. The following requirements shall be adhered to regarding right-of-way for corner clip radius:

1. On any corner parcel with access to at least one adjacent road classified as a collector or above, additional right-of-way shall be dedicated to the City if needed to accommodate intersection radius improvements.

2. Property lines at street intersections shall be rounded with a minimum radius of 25 feet. A greater radius shall be required at an angle of intersection of less than 75 degrees, as determined by the Land Use Administrator based upon sound and generally accepted engineering practices and principles.

G. Right-of-way donations/dedications may be eligible for transportation impact fee credits if the donation or dedication is in accordance with City requirements.

5.02.04. *Connectivity and interconnectivity.*

A. When nonresidential developments are proposed to front on public streets, the City shall require the use of joint driveways and cross-access easements in order to minimize the number and maximize the spacing of access connections unless determined not feasible by the Land Use Administrator due to a unique configuration of the properties or substantial environmental constraints. Whenever cross-access corridors or coordinated or joint parking designs are provided to accomplish access management, each applicant for development approval shall provide such easements or agreements as may be necessary to ensure that adjoining properties shall be appropriately connected in order to implement a unified system allowing general cross-access to and from the other properties in the affected area. Such easements or agreements shall be recorded in the Public Records of Flagler County by the developer at developer's expense and shall constitute a covenant running with the land. When cross-access is provided to an undeveloped adjoining property, a temporary curb shall be provided at the end of the pavement to ensure drivers do not use the cross-access until the adjoining property is developed. Nonresidential developments shall provide a second means of ingress when required by the Florida Fire Prevention Code or this Code.

B. All new residential developments of more than 100~~50~~ dwelling units, or which use as access a street that is 2,500 feet or more in length from another roadway, shall provide a minimum of two vehicular entrances from a public right-of-way, with at least one of the vehicular entrances connecting to a public collector or arterial road, but both directly connecting to a public road. For new residential developments exceeding 250 dwelling units must provide two paved vehicular

entrances. A deviation to the requirement that at least one of the vehicular entrances connect to a public collector or arterial road may be granted by the Land Use Administrator if it is determined by a traffic study administered by a licensed engineer that the additional traffic will not exceed the capacity of surrounding local streets at build-out of the surrounding area, or if the entrance connects to a private roadway meeting City standards, which then connects to a public roadway.

C. All developments shall provide for bicycle and pedestrian interconnectivity to promote the use of bicycles and walking and as a means to reduce traffic on collector and arterial roads.

D. All residential and nonresidential development that abuts an existing or proposed trail system shall provide pedestrian and bicycle links to the trail system unless it would not be safe.

E. All new roads, except those where bicyclists are unlawful, such as controlled access highways, shall be designed and constructed for the provision of bicycle access. Bicycle safe design practices shall be followed including, but not limited to, safe drainage grates, railroad crossings, smooth pavements, and signals responsive to bicycles. In addition, the desirability of adding facilities such as bicycle lanes, bicycle routes, shoulder improvements, and wide curb lanes shall be considered.

F. To the fullest extent practicable, all rural arterial and collector sections within one mile of an urbanized area shall be considered for the construction of paved shoulders five~~four~~ feet in width.~~, and all urban arterial and collector sections shall be considered for either a curb lane 14 feet in width or an undesignated lane four feet in width. Generally, such facilities shall not be marked to attract bicycle traffic.~~

5.02.05. *Intersections.*

A. Streets shall intersect at an angle of 90 degrees, unless unique circumstances justify a lesser angle of intersection based upon sound and generally accepted engineering practices and principles.

B. Spacing of street intersections shall be determined based upon Florida Department of Transportation Access Management Standards and Classifications.

5.02.06. *Visibility at intersections.*

A. Sight triangles and sight distance requirements shall adhere to Section 11.03.01.L., including Table 11-3 - Sight Triangle Dimensions Along Driveways and Roadways.

B. Within that portion of a lot or parcel that lies within the sight triangle, as defined in Chapter 14, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially obstruct vision between a height of two feet to seven feet above the average grade at the centerline of the adjoining road.

C. Low-growing shrubs, annuals, and other lower growing vegetation may be utilized within sight triangles or other areas to ensure visibility is not reduced.

D. Trees may be permitted in the sight triangle, at the discretion of the Land Use Administrator, if the trees have a single-trunk and foliage is kept trimmed between two feet and seven feet in height.

( Ord. No. 2018-21 , § 3, 10-2-18)

## Sec. 5.03. - Access.

5.03.01. *Vehicular access.*

A. Access management, location, design, and construction of driveway connections to the City's road network shall follow criteria and standard practices as established by the City, based upon Florida Department of Transportation's Access Management Standards and Classifications rules.

B. All development sites shall provide permanent access from a paved street to each lot or parcel within the development in accordance with City standards.

C. Cutting or altering a curb on a public street is prohibited without a permit issued by the City in accordance with Chapter 9.

D. In addition to City approval, approval from Florida Department of Transportation for state roads, or Flagler County for county roads, is also required for any access onto such roads.

E. All driveways shall be designed and constructed to comply with all drainage standards as outlined in Chapter 9 and shall be constructed utilizing an approved paving material in accordance with City standards.

5.03.02. *Pedestrian access.*

A. All development shall provide paved sidewalks, meeting the latest ADA (Americans with Disabilities Act) and City standards, whenever the development fronts on a collector or arterial street.

B. All proposed development fronting a local street shall provide a five-foot wide paved sidewalk(s) along the entire frontage with the local streets, except as outlined below, based on the following standards:

1. Where sidewalks are present along frontage with a local street, a five-foot wide paved sidewalk shall be provided connecting the existing sidewalk to the principal building(s). Where development has frontage on more than one local street, five-foot wide paved sidewalks shall connect the principal building(s) to each local street.

2. Where no sidewalks are present, a sidewalk shall be provided. The City shall determine the location and size of the sidewalk based on the characteristics of the right-of-way.

3. If the construction of a sidewalk is not currently feasible or practical, the Land Use Administrator may allow the developer to make a payment into the Palm Coast Sidewalk Improvement Trust Fund in lieu of sidewalk construction; however, the design and location of new sidewalk must be part of the subdivision or site plan. If sidewalk location is within private property then a legal instrument must be provided to have public access. The legal instrument can be provided in a plat as a right-of-way and/or access easement.~~.~~

C. All new residential and nonresidential development adjacent to a proposed multi-use path, consistent with the Bicycle/Pedestrian Master Plan, shall provide a~~n eight foot to~~ twelve~~ten~~-foot wide trail pathway (hard or soft surface per City standards) within the right-of-way or in an easement to provide for the extension of the trail system based upon a rational nexus and rough proportionality analysis.

D. Where development fronts on a collector or arterial road, a five-foot paved sidewalk shall be provided to connect the public sidewalk to the principal building(s) with the sidewalk being placed along the collector or arterial road. Where development fronts on more than one collector or arterial roadway, sidewalks shall connect the principal building(s) to each collector/arterial roadway. Five-foot paved sidewalks shall also be provided to connect to adjacent properties.

E. All new nonresidential and multifamily residential development shall provide safe and convenient pedestrian access and connectivity throughout the site. If necessary, such pedestrian access shall be within an easement consistent with Section 9.02.03E.

5.03.03. *Surfacing.* Access to any project or development shall require a hard surface driveway apron meeting City engineering standards connecting the driveway to the pavement of a public street.

5.03.04. *Single-family, duplex and townhouse driveway and garage standards.*

A. Parking spaces and garages for single-family, duplex and townhouse units shall be provided as follows with garages not counting towards minimum required parking spaces:

1. Single-family homes with less than 1,200 square feet in living area shall have at least a one-car attached garage and a permanent surface for two exterior parking spaces. Single-family homes with at least 1,200 square feet in living area shall have at least a two-car attached garage unless an exception is specifically permitted by another provision of this Code.

2. Duplexes with less than 1,~~300~~ 500 square feet in living area per unit shall have at least a one-car attached garage and a permanent surface for two exterior parking spaces per dwelling unit. Duplexes with 1,~~300~~ 500 or greater square feet in living area per unit shall have at least a two-car attached garage per dwelling unit unless an exception is specifically permitted by another provision of this Code.

3. A townhouse with less than 1,500 square feet in living area shall have at least a one-car garage and a permanent surface for two exterior parking spaces. A two-car garage is required for a townhouse with 1,500 or greater square feet in living area.

4. Off-street parking is prohibited adjacent to either side of the dwelling, except when such parking space provides access to a garage.

B. Driveways for single-family, duplex and townhouse units shall be provided as follows:

1. Driveways shall be completely paved. However, on one-acre or larger lots, where the garage is located at least 100 feet from the right-of-way, the pavement area may be limited as follows: Only the 20 feet closest to the garage, the driveway apron area within the right-of-way, and other portions of the driveway that are visible from the right-of-way and within 100 feet of the right-of-way, are required to be paved. The unpaved driveway area shall be of a stabilized material that will support emergency vehicles and meet City standards, such as graded and compacted asphalt milling or similar material. Pervious and permeable pavers and pavement which meet City standards are allowed and are acceptable Green Building materials.

2. Garages must have a driveway extending for a minimum of 20 feet in front of each garage door. The driveway shall be at least the width of the garage door(s), with a minimum width of ten feet, to allow for safe access. For the 20 feet of the driveway that is closest to the garage, driveways for one and two-car garages shall have a minimum width of 16 feet, and driveways for three-car or larger garages shall have a minimum width of 24 feet.

3. Residential driveways entering the public right-of-way shall be a minimum of ten feet wide at the right-of-way line and 16 feet wide at the roadway edge. On corner lots, driveways shall not enter the right-of-way within 25 feet of where the two rights-of-way lines ~~would~~ intersect ~~if extended~~.

4. Driveways shall either lead to a garage (standard driveway), or a circular driveway may be constructed. Except for corner lots, one approach of a circular driveway shall double as the standard driveway.

5. A standard driveway may also have a flare where the driveway widens to provide for an additional lane for vehicle parking. Additionally, standard driveways may have a turnaround so residents may avoid backing out onto the street. Turnarounds shall be located solely on the homeowner's property, except for radii, and not within rights-of-way. Turnarounds shall be a maximum of 9' wide by 18' long. In side yards, flares and turnarounds shall not encroach into side yard easements and shall not be located within five feet of side property lines.

6. Maximum driveway widths internal to the lot shall be 18 feet for circular driveways and turnarounds; and for standard driveways, including any flares, the internal widths shall be limited to 20 feet for a one-car garage, 36 feet for a two-car garage, 42 feet for a three-car

garage, and 48 feet for a four-car garage. For circular driveways that merge with standard driveways, only the standard driveway area may exceed the maximum width of 18 feet.

7. The lot area in front of the home's building façade out to the front property line must have a minimum of 25 percent landscaped planting area.
8. Driveways, driveway aprons and culverts beneath driveways shall conform to City design and permitting standards.
9. Owners proposing to utilize pavers as pavement on the portion of the driveway in the City right-of-way shall execute a Right-of-Way Utilization Agreement prior to City final approval.

(Ord. No. 2009-26, § 35, 12-15-09; Ord. No. 2018-21 , § 3, 10-2-18)

## Sec. 5.04. - Parking.

5.04.01. *Plan requirement.* Off-street parking, loading space, and drive-through facility plans shall be submitted and approved during the site plan review process as outlined in Chapter 2.

5.04.02. *Off-street vehicle parking.* Off-street parking and loading facilities shall be provided for any new use established, for any addition or enlargement of an existing use, or any change of occupancy or manner of operation that would result in additional parking. See Chapter 1 for nonconforming uses and the remodeling threshold. Additional parking may be required only for such addition, enlargement, or change, and not for the entire building or use, unless it is determined, based on the historical function of the use or similar such uses, there is a need for additional parking.

A. *Off-street parking spaces required.*

1. *Minimum number required.* The required number of off-street motor vehicle spaces and any special requirements that may apply are provided in Table 5-3. When the number of off-street spaces required by this Code results in a fractional space, the number shall be rounded to the nearest whole number. Where parking is based on seating on benches or pews, each 24 lineal inches of the bench/pew shall be considered one seat.

*Table 5-3: Parking Ratios*

**NOTE:** Unless otherwise noted, all square footages (s.f.) are based on the gross floor area of the unit or building.

| Type of use | Minimum Number of Spaces |
|---|---|
| Adult entertainment | 1 space per 100 s.f. |
| Assembly places (houses of worship/religious institutions, funeral homes, movie theaters, auditoriums, arenas, stadiums, civic centers, and facilities with an auditorium, sanctuary, or gathering place, whether fixed seats or open area) | 1 space per 4 seats |
| Banks and credit unions | 1 space per 200 s.f. |

| | |
|---|---|
| Barber shops and beauty salons | 1 space per 250 s.f. |
| Bowling alley | 3 spaces per lane |
| Call centers and contact centers | 1 space per 115 sq. ft. |
| Civic clubs and lodges (including civic membership organizations) | 1 space per 3 seats plus 2 spaces per 100 s.f. of area devoted to public assembly without seats |
| Colleges, universities and business/technical schools | 1 space per 3 on-site school population (students, faculty and staff but excluding online students) |
| Convenience store (with or without fueling stations) | 1 space per 200 s.f. + 1 space per 2 seats for food patrons |
| Day care, child care, private schools (k-12) | 2 spaces per employee on the largest shift. For private high schools, add 1 space per 2 students in 11th and 12th grade |
| Fitness center/health club/dance studio | 1 space per 125 s.f. |
| Furniture/mattress store | 1 per 700 s.f. |
| Gasoline service stations/vehicle service and repair facilities | 1 space per 250 s.f. of area devoted to sales or customer lounges, plus sufficient area to accommodate vehicles at pumps without interfering with other parking, plus 3 spaces per service bay |
| Golf course | 4 spaces per hole; plus 1 space per 250 s.f. of clubhouse |
| Golf driving range/putting greens | 1 space per 2 driving tees/putting greens + parking for any structures |
| Golf, miniature | 1.25 spaces per hole + parking for any structures |
| Grocery/supermarket [1] | 1 space per 200 s.f. |

| | |
|---|---|
| Group lodging, including nursing homes, rest homes, convalescent homes, assisted care facilities, and other similar facilities | 1 space per 2 beds or 0.75 space per unit |
| Home Improvement/Building Materials and Garden Centers [1] | 3.5 spaces per 1,000 s.f. |
| Hospitals and other medical facilities providing overnight accommodations | 2 spaces per bed |
| Hotels, motels, and other similar lodging and accommodations establishments, without restaurants or lounges open to the public | 1.15 spaces per sleeping room |
| Hotels, motels, apartment hotels, and other similar lodging and accommodations establishments, with restaurants or lounges open to the public | 1.15 spaces per sleeping room, plus parking required at 50% of normal rates for any restaurant or drinking establishment |
| Independent living units (associated with a continuing care retirement community) | 1.25 spaces per unit |
| Industrial, manufacturing and production uses | 1 space per 750 s.f. |
| Marinas | 1 space per 3 boat berths (wet slip or dry storage) |
| Medical or dental offices, medical or dental laboratory, and medical clinics, and veterinary clinics | 1 space per 250 s.f. |
| Mini-warehouse or self-storage facilities including boat and recreational vehicle storage | Minimum of four spaces required. Facilities providing more than 200 storage units require an additional 1 space per 50 units. (Storage units include both indoor storage units and outdoor RV/Boat storage spaces.)~~2 spaces per 100 storage units and a minimum of 4 vehicle/boat storage spaces~~ |

| | |
|---|---|
| Multi-family dwellings | 1 space per efficiency unit<br>1.5 spaces per 1 bedroom<br>2 spaces per 2 bedrooms and over |
| Offices (general, professional, or government) | 1 space per 250 s.f. |
| Plant nursery | 1 space per 250 s.f. of building area + 1 space per 2,000 s.f. of display areas open to the public |
| Restaurants (with or without a drive-through), drinking establishments | 1 space per 50 s.f. of areas open to the public + 1 space per 75 s.f. of outdoor eating/drinking areas |
| Shopping centers, discount superstores, and multi-tenant retail centers [1] | 1 space per 250 s.f. |
| Retail including pharmacies and business services | 1 space per 250 s.f. |
| Single-family dwelling, duplex, two-family and townhouse units | 2 spaces per unit |
| Tennis, bocce ball, pickle ball, shuffleboard and racquetball facilities | 1.5 spaces per court |
| Vehicle and boat sales/dealership | 1 per 3,000 s.f. of open or enclosed sales area |
| Warehouse | 1 space per 1,200 s.f. |
| [ [1] An additional parking space equivalent is required for every 50 parking spaces for shopping cart storage for shopping center development exceeding 50,000 s.f.] | |

2. *Uses not listed.* The required number of spaces for any use not specifically mentioned shall be the same as the use most similar to the proposed use, based on data provided by the Institute of Transportation Engineers in Parking Generation or similar studies.
3. *Multiple uses.* Except for a multi-tenant retail center or shopping center, where a combination of uses is proposed for development, parking shall be provided for each of the uses as prescribed by Table 5-3, unless a shared parking agreement acceptable to the City is reached by the property owner(s) (see Section 5.04.08).
4. *Maximum parking permitted.* For all land uses, except for single-family and two-family residences, the maximum permitted number of parking spaces shall not exceed 1.2 times the minimum parking required by this section unless the Land Use Administrator finds that

exceeding the maximum is justified based upon sound and generally accepted land use planning practices and principles as demonstrated within a Parking Flexibility Study.

5. *Screening.* Screening is required for off-street parking spaces in accordance with Section 11.03.04.A.
6. *Internal parking lot landscaping.* For parking lot islands and their related landscaping requirements see Section 11.03.04.B.

B. *Flexibility.*

1. The Land Use Administrator may authorize an adjustment of up to 20% in the total parking requirements where it is demonstrated that the application of the parking ratios is inappropriate for a proposed use due to the mix of existing or proposed uses on the property. A request for adjustment may require the submission of a site plan, traffic and parking study, and floor plan, which address the rationale for reducing or increasing parking requirements. Considerations and approval shall be contingent upon the continued operation of like or similar uses as identified under the approved plan. A change in the use category of parking shall require separate consideration. Pervious surface materials may be utilized when increasing parking requirements, where feasible, and may include pervious pavement, brick pavers, or other permanent pervious materials supported by green building principles. Stabilized grass parking with paved parking aisles may be considered, where feasible, for periodic overflow parking. Reducing parking requirements may require additional pervious areas and adequate stormwater capacity to accommodate potential future parking spaces per Code.
2. The Land Use Administrator may approve de minimis variations of parking lot or design standards if it is determined that a substantial public benefit would be attained. The de minimis variance may include reducing the required number of parking spaces; public benefits may include: the use of alternative surface materials; or varying from design standards when specimen or historic trees can be saved, utility conflicts can be avoided, or where architectural aesthetics can be improved.
3. Up to 33 percent of required parking for not-for-profit and non-profit groups and civic clubs that only use the parking periodically (one day or less per week except for occasional special events), may be provided as stabilized grass parking, with approval of the Land Use Administrator, where those spaces are served by paved parking aisles and are generally located further from the use being served than the paved spaces. Landscaped islands are required with stabilized grass parking (see Section 11.03.04.B.3.b). Stabilized grass parking spaces shall be appropriately graded and computed as impervious areas for water management purposes, and stabilized grass parking spaces that are utilized more often than periodically as defined above shall be paved if required by the Land Use Administrator based on amount of use.
4. All of the overflow parking (parking that exceeds the minimum number of required spaces) for not-for-profit and non-profit groups and civic clubs that only use the parking on an occasional basis may be provided as stabilized grass parking and stabilized grass drive aisles, with approval of the Land Use Administrator, where those spaces are generally located further from the use being served than the required parking. Landscaped islands are required with stabilized grass parking spaces (see Section 11.03.04.B.3.b). Stabilized grass parking spaces and stabilized grass drive aisles shall be appropriately graded and computed as impervious areas for water management purposes.

C. *Location.*

1. Each off-street parking space shall be located on the site it services, unless provided otherwise in this Code.

2. Nonresidential off-street parking spaces and access ways shall not be located closer than eight feet from any side property line, unless both adjoining properties are part of a master plan, share an access way, or similar circumstances exist. The minimum queuing distance required from the property line along a right-of-way to the first parking space or parking aisle is: a) 20 feet along a local public roadway: b) 35 feet along a collector roadway: or c) 50 feet along an arterial roadway: unless the applicant demonstrates, based on a traffic study, that a reduced queuing distance will not pose a hazard or interfere with pedestrian and vehicle traffic operations. However, traffic from a proposed development must not stack onto a public right-of-way during typical peak hour operating conditions.
3. All required parking stalls shall have direct and unobstructed access from a parking aisle.

D. *Off-street circulation.*

1. Internal circulation patterns, and the location and traffic direction of all access ways and parking aisles, shall be designed and maintained in accordance with accepted principles of traffic engineering and traffic safety, and clearly marked as required by the City.
2. Vehicular circulation shall be completely contained within the property and vehicles located within a portion of the development must have access to all other portions without using the adjacent street system.

E. *Parking facility design.*

1. All parking facilities shall be graded and provided with permanent storm drainage facilities meeting the construction specifications set by the City. Surfacing, curbing, and drainage improvements shall be sufficient to preclude the free flow of water onto adjacent properties or public streets or alleys, and to provide adequate drainage.
2. Reserved.
3. Any off-street parking facility shall have access ways of sufficient width to allow for two-way traffic, or one-way access ways that are connected to parking aisles, parking areas, or maneuvering areas in such a manner as to permit traffic to simultaneously enter and leave the property. An access way that is only wide enough for one-way traffic shall have signage designating it for one-way operation.
4. Single-lane one-way access ways shall be a minimum of 14 feet wide. Two-way access ways shall be a minimum of 24 feet wide, exclusive of any median. Required access way widths may be increased by the City based on vehicle types and numbers of vehicles expected to use the facility, or if the Fire Prevention Code justifies such increase based upon traffic engineering and safety considerations.
5. Parking spaces and parking aisles shall be designed in accordance with Table 5-4.
6. Applicants are encouraged to reduce paved areas by reducing the perpendicular depth of standard parking spaces to 18 feet of pavement with two feet of overhang area, subject to the following conditions:
    a. Continuous curbing shall be used at the overhang.
    b. The overhang will not interfere with the healthy growth of adjacent landscaping material.
    c. Any abutting sidewalk is raised a minimum of six inches and is a minimum of seven feet wide. A sidewalk located at least two feet from the front of curb does not need to meet these standards.

*Table 5-4: Parking Space and Parking Aisle Requirements*

| Parking Angle (degrees) | Standard Stall Width (feet) | Stall Depth Perpendicular to Aisle (feet) | Curb Length Parallel to Aisle (feet) | Parking Aisle Width One-Way Traffic (feet) | Parking Aisle Width Two-Way Traffic (feet) |
|---|---|---|---|---|---|
| 0 (parallel) | 10 | 10 | 23 | 12 | 24 |
| 45 | 9 | 21.2 | 12.7 | 14 | 24 |
| 60 | 9 | 22.3 | 10.4 | 18 | 24 |
| 90 | 9 | 20 | 9 | 24 | 24 |

**Note:** Parking spaces are measured from the centerline of painted stripe to edge of curb or center-line of painted stripe.

7. Parking stalls shall be delineated with a white pavement striping that is six inches wide.
8. Reserved.
9. For any nonresidential or multi-family use providing 50 or more spaces, a maximum of three for every 50 required spaces may be reduced in size and designed to accommodate parking for motorcycles. When provided, motorcycle parking shall be clearly identified by a sign, be at least 4.5 feet wide, surfaced with concrete, and have pavement striping. Motorcycle spaces may count towards required vehicular parking spaces.
10. All permanent off-street parking and loading and/or unloading areas except as permitted under Sections 5.04.02.B.3 and 5.04.02.B.4, shall be surfaced with brick, pavers, asphalt, or concrete, and all materials shall meet City design standards.

F. *Maintenance.*

1. All required parking facilities shall be properly maintained in perpetuity by the property owner or appropriate property owners association. Such facilities shall be used exclusively for the temporary parking of motor vehicles.
2. Parking facilities shall not be used for the sale, display, or storage of merchandise, for the storage or repair of vehicles or equipment, or activities other than providing public and employee parking, unless another activity was approved on the site plan.
3. All parking and loading facilities shall be properly maintained to ensure the desirability and usefulness of the facility, including maintenance of finished and stabilized surfaces, parking stripes and required signage. Parking stripes that are faded shall be repainted, and faded or missing required signage shall be replaced. Such facilities shall be maintained free of potholes, refuse, debris, or other accumulated matter and shall at all times be available for the off-street parking or loading use consistent with applicable development approvals.
4. Landscaping materials located within sight triangles shall be properly trimmed and maintained.

5.04.03. *Bicycle parking.*

A. All developments (except for single-family and duplex platted lots) requiring off-street parking shall provide parking for bicycles in accordance with the following standards:

1. Multifamily development shall provide bicycle parking spaces to the equivalent of ten percent of the required vehicular parking spaces.

2. Nonresidential developments shall provide bicycle rack spaces as follows:

*Table 5-5: Bicycle Rack Ratios for Nonresidential Developments*

| Required Number of Automobile Parking Spaces | Minimum Number of Required Bicycle Rack Spaces |
|---|---|
| 1—40 | 2 |
| 41—60 | 3 |
| 61—80 | 4 |
| 81—100 | 5 |
| Over 100 | 5 plus 1 for each 20 automobile parking spaces over 100, provided that the maximum number of required bicycle spaces shall not exceed 20 |

B. Bicycle rack facilities shall meet the following standards:

1. Shall be designed to allow each bicycle to be secured against theft.

2. Shall be installed in a permanent manner to resist removal.

3. Shall be installed to resist damage by rust, corrosion, or vandalism.

4. Shall accommodate a range of bicycle shapes and sizes and allow easy locking without interfering with adjacent bicycles.

5. Shall not interfere with pedestrian or vehicular movement.

6. Shall be located within 200 feet of the building entrance(s) they are intended to serve.

5.04.04. *Parking lot lighting.* The lighting design for new and redevelopment sites shall meet the lighting requirements set forth in Chapter 9.

5.04.05. *Americans with Disabilities Act requirements for access and parking.* Accessible parking shall comply with Florida Department of Transportation Design Standards and Chapter 17 of the Florida Americans with Disabilities Act Architectural Barrier Removal and Compliance Manual, 2005 Edition, as amended. The total number of parking spaces required in this chapter includes the minimum number of accessible parking spaces required.

5.04.06. *Temporary parking.* The Land Use Administrator may require new nonresidential uses to provide a minimum of one and a maximum of two parking spaces for temporary pick-up and drop-off

based on the size and use of the development. The temporary parking space(s) shall be located near the primary building entrance. Temporary parking shall count towards the total required parking spaces.

5.04.07. *Off-street loading or unloading space requirements.*

A. At the time of construction of any of the categories of buildings listed in Table 5-6, or at the time of structural alteration for an increase in their size or capacity, off-street loading and/or unloading spaces with adequate means of ingress and egress from a public street or access way shall be provided without interfering with the public use of streets, off-street parking spaces, or taxi stands. Off-street parking spaces shall not be used to meet off-street loading requirements.

B. The dimensions, design, and location of all off-street loading spaces shall meet the requirements as outlined in this Code.

C. Loading spaces shall not block streets, alleys, driveways, or sidewalks. Loading spaces shall not impair the movement of vehicles or pedestrians on streets, alleys, or sidewalks. Loading areas shall not use a public right-of-way or adjacent property as part of a maneuvering area, or use a public right-of-way or adjacent property as part of a temporary or permanent parking area for loading or unloading.

D. The minimum number of off-street loading and/or unloading spaces and the design shall meet the needs of the proposed use and reasonably expected future uses, and shall have the minimum dimensional requirements as displayed in the following tables:

*Table 5-6: Loading or Unloading Space Requirements*

| Use Category | Floor Area in Square Feet | Number of Spaces Required |
|---|---|---|
| Retail Sales and Service, Restaurants, or Similar Uses | 5,000—20,000 | 1 |
| | 20,001—50,000 | 2 |
| | Each additional 25,000 square feet or major fraction thereof | 1 |
| Offices, Hotels, Hospitals, Nursing Homes, Adult Congregate Living Facilities, Multi-Family Project or Similar Uses | 30,000—100,000 | 1 |
| | Each additional 100,000 square feet or major fraction thereof | 1 |
| Arenas, Auditoriums, Stadiums, Convention Centers, Exhibition Halls, Museums, or Similar Uses | 10,000—50,000 | 1 |
| | 50,001—100,000 | 2 |

| | | |
|---|---|---|
| | Over 100,000 | 4 |
| Any Industrial Use and any Wholesale, Retail, and Nonresidential Storage Facility (Not Required for a Self-Storage Facility) | 5,000—25,000 | 1 |
| | 25,001—55,000 | 2 |
| | 55,001—85,000 | 3 |
| | Each additional 30,000 square feet or major fractions thereof | 1 |

E. Every loading space shall demonstrate adequate turning radius and movement based upon the requirements of the delivery truck and meet the following minimum dimensions:

*Table 5-7: Loading Space Dimensional Requirements*

| | |
|---|---|
| **Length or Depth of Space** | 30 feet* |
| **Width** | 12 feet |
| **Height or Vertical Clearance** | 14 feet |

* For tractor-trailer trucks, a 55-foot length is required. Retail and industrial buildings with 50,000 square feet of retail area or more shall have at least one loading space for tractor-trailer trucks, and buildings with 100,000 square feet of retail area or more shall have at least two loading spaces for tractor-trailer trucks, unless the applicant demonstrates a standard size loading space will suffice for one or both spaces based on the nature of the use(s).

F. Loading spaces for tractor-trailer trucks shall not be located within 100 feet of any residential use or zoning district boundary and these spaces shall be located to the rear of the principal structure and screened from view of the public right-of-way or access easement.

G. Uses not listed. The required number of loading spaces for any use not specifically mentioned above shall be the same as the use most similar to the proposed use, or be guided by requirements for such use in other jurisdictions, or by data provided by the Institute of Transportation Engineers, or other similar studies.

H. An adjustment in the loading requirements may be approved where it is demonstrated that the application of the loading ratios is inappropriate for a proposed use due to specific site or use conditions. The applicant must submit a site plan and operational analysis which address the rationale for reducing or increasing loading requirements. Approval shall be contingent upon the continued operation of like or similar uses as identified under the approved site plan. If there is a change in the use category of loading, a new application must be submitted.

5.04.08. *Shared parking and joint use of facilities.*

A. The Land Use Administrator may permit the required off-street parking spaces for a use to be shared as required parking spaces for another use upon finding that:

1. The shared parking spaces are in close proximity and readily accessible to the uses served thereby;

2. The uses served thereby have different peak periods or the required parking is excessive for one use; and

3. The design of the parking area in terms of traffic circulation, vehicular and pedestrian access, stormwater management, landscaping, open space preservation, and public safety meets the requirements of this Code.

B. A shared parking usage analysis shall be employed for calculating parking requirements for multiple uses.

C. Accessible spaces shall be based on the single use parking requirement. The shared parking methodology shall only reduce the general parking requirement.

D. Upon a finding by the Land Use Administrator that shared parking is appropriate, the Land Use Administrator shall issue a development order or approve an agreement for shared parking, which shall be recorded in the public records, and shall be enforceable by the City.

5.04.09. *Fleet storage.*

A. *General requirements.* In all zoning districts except industrial zoning districts or industrial type uses in the PSP Zoning District, the following requirements apply to the storage of five or more operable and inoperable motor vehicles which are owned (includes ownership under another corporate entity for which vehicles serve the business establishment located at the site) or leased by a business establishment located on the site on which the motor vehicles are located, excluding lawful and permitted businesses that inherently require the display of motor vehicles, trailers, heavy commercial vehicles, and construction equipment (i.e. automobile dealerships, tractor dealerships, etc.).

1. Areas specifically designated for fleet vehicles shall be screened from public view using a Tall Screen Planting described in Table 11-4 in this Code.

2. Fleet vehicle parking spaces and areas shall not be used to satisfy the required off-street parking for its land use as required in this Code.

3. It is prohibited and unlawful to park an inoperable motor vehicle for any part of a 24-hour period unless the motor vehicle is enclosed within a building or located within an opaque enclosure that is no less than six feet in height.

4. Fleet vehicles shall be used solely for the purpose of conducting activity associated with the business establishment (licensed by applicable federal, state, and local agencies) at the location where the motor vehicles are parked.

5. A business with fleet vehicles desiring to locate into an existing building in an appropriately zoned district shall establish a designated area for the fleet vehicles in compliance with this section if such area is not already established. A site plan shall be submitted to the Land Use Administrator to determine compliance.

B. *Exemptions.* This section does not apply to commercial motor vehicles parked during active loading and unloading for any part of a 24-hour period within areas designated as loading spaces on an approved site plan or to automobiles or sport utility vehicles.

5.04.10. *Boat and recreational vehicle commercial storage facilities.* Where boats or recreational vehicles are commercially stored outside, they shall only be stored on pavement located behind buildings or preserved wooded areas so they are generally hidden from the public rights-of-way, unless specifically permitted by Code.

5.04.11. *Drive-through facilities.*

5.04.11.01. *Location.*

A. A site that contains drive-through facilities shall be located on a collector or arterial road.

B. Drive-through facilities for an automated teller machine (ATM) shall only be located on sites with a financial institution; or, if within a multi-tenant retail center or shopping center, where the applicant demonstrates that the facilities will not interfere with the safe movement of traffic.

5.04.11.2. *Stacking lanes and spaces.*

A. All facilities providing drive-through service shall provide stacking lanes in compliance with the standards of this section. A stacking space shall be a minimum of ten feet in width and 20 feet in length, measured starting ten feet behind the pickup window.

1. Drive-through lanes must be clearly distinguished from parking aisles by acceptable pavement markings or pavement color.

2. On-site stacking spaces must accommodate stacking demand under the typical a.m., mid-day, and p.m. peak hour conditions of adjacent roadways.

3. A 12-foot wide paved bypass lane (11 feet if the stacking lane is increased to a width of 11 feet) shall be provided for drive-through facilities, unless the City determines the bypass lane is unnecessary due to unique site conditions.

B. Restaurants with drive-through facilities shall provide a minimum of nine stacking spaces. The bypass lane shall serve customers at least until they have traveled past the point where orders are taken.

C. Banks, financial institutions, dry cleaners, and pharmacies shall provide a minimum of four stacking spaces per lane; except for automated teller machines, which shall have three spaces per lane.

D. An automated car wash, and a manned or unmanned gatehouse or entry control structure, shall provide a minimum of three stacking spaces per service lane.

E. A six feet high solid decorative wall shall be provided along all property lines abutting lots or parcels zoned or used for residential purposes in order to block lights and noise from vehicles in the stacking lanes or drive-through facility.

F. Stacking lanes shall not be located within a designated delivery area or loading zone.

G. Within the OFC-1 District, drive-through facilities may have only a single lane with a single service window, unless the second lane is serviced by the same single window, or by an automated device (e.g., ATM).

H. Uses not listed. The required number of stacking spaces for any use not specifically mentioned shall be the same as the use most similar to the proposed use, or be guided by requirements for such use in other jurisdictions, or data provided by the Institute of Transportation Engineers in Parking Generation, or other similar studies.

I. The Land Use Administrator may determine an increase or reduction in the stacking requirements is required where it is demonstrated that the stacking number is inappropriate for a proposed use due to the property configuration, the specific nature of the use, or traffic flow patterns.

1. To request a modification, an applicant must submit a site plan and traffic study which address the rationale for reducing the stacking requirements.

2. Approval shall be contingent upon the continued operation of like or similar uses as identified under the approved site plan.

3. A change in the use category shall require a new application for modification.

(Ord. No. 2009-26, §§ 36—40, 12-15-09; Ord. No. 2012-3, § 4(Exh. 2), 5-1-12; Ord. No. 2018-21 , § 3, 10-2-18)

Chapter 6 - RESERVED

## Sec. 7.01. - Purpose and Intent.

The purpose of this chapter is to implement the concurrency provisions of the Comprehensive Plan, as mandated by Section 163.3180, Florida StatutesF.S. ch. 163 , and the Florida Administrative Code. No development order or permit which contains a specific plan of development, including the densities and intensities of development, shall be issued except in accordance with this chapter.

## Sec. 7.02. - Public Facilities.

The public facilities subject to concurrency and the regulations in this chapter include: transportation facilities, potable water, sanitary sewer, solid waste, drainage, schools, and parks and recreation.

## Sec. 7.03. - Tracking and Reporting.

7.03.01. *Concurrency management monitoring system.* The City hereby establishes and shall maintain a concurrency management monitoring system which consists of an inventory of public facility capacity and a demand accounting system that reflects the current status and availability of public facilities. A status report on the concurrency management monitoring system shall be prepared by the City on annual basis.

7.03.02. *Concurrency baseline statement.*

A. The Land Use Administrator shall develop a concurrency baseline statement which shall be effective for one year after its issuance. Nothing herein precludes, however, the issuance and effectiveness of more frequent amendments to the concurrency baseline statement. The concurrency baseline statement is an assessment of public facility available capacity anticipated for the reporting period.

B. The available capacity reported for each public facility in the concurrency baseline statement shall be determined by using calculations from the concurrency management monitoring system and projections of public facility demand for vested developments. The public facility demand for vested projects shall be based upon a reasonable projection of the progress of each proposal or project, population projections, and other technical considerations, such as the practices and assumptions utilized in the Comprehensive Plan.

## Sec. 7.04. - Concurrency Review.

7.04.01. *Applicability.* All proposed developments or improvements to property requiring a final development order, except those developments or improvements which are exempt, as outlined in Subsection 7.04.02, or vested by this chapter, shall be subject to concurrency review prior to the issuance of a final development order.

7.04.02. *Exemptions.*

A. Final development orders, including building permits, which permit or approve the following types of development, are exempt from concurrency review if the Land Use Administrator finds that no additional impact on public facilities is created:

1. Approved development plans which are specifically exempted from or specifically determined to be vested from the concurrency requirements in the Comprehensive Plan, pursuant to applicable laws.

2. Single-family and duplex residential lots platted as of November 16, 2008 are only exempt from transportation concurrency review.

3. Modifications to residential dwellings that include additions, renovations, or reconstruction that do not increase the number of dwelling units on the site or approved for the property prior to the modifications.

4. Additions, renovations to, or reconstruction of, accessory dwelling units, garage apartments, or other similar accessory units on parcels properly zoned to allow the accessory dwelling units.

5. Public facilities such as City offices, community centers, fire stations, parks, police stations, ~~hospitals (public or not for profit),~~ water or sewer facilities, other public works, and other public facilities as determined by the Land Use Administrator.

B. A Development of Regional Impact that has been approved pursuant to Section 380.06, Florida Statutes~~F.S. ch. 380~~, for which the development is proceeding in compliance with the conditions of the Development of Regional Impact approval, may be exempt from transportation concurrency as provided by the Development of Regional Impact Development Order, if the development meets all the requirements of Section 163.3180 (5)~~F.S. § 163.3180 (12)~~, and this chapter.

C. Final development orders which permit or approve development that creates a de minimis impact, as defined by F.S. § 163.3180 ~~(6)~~, shall be exempt from concurrency review for transportation facilities.

7.04.03. *Deferral option.*

A. Any applicant for a final development order may elect to defer concurrency review until the time at which an application for the final development order preceding a preconstruction conference or the commencement of any construction activity is filed. The applicant shall execute an affidavit acknowledging that development rights have not been vested and that development on the subject parcel shall be required to undergo concurrency review in the future. Deferral of school concurrency review is determined by the Flagler County School District.

B. Reserved.

C. A deferral affidavit shall be submitted to the Land Use Administrator.

7.04.04. *Standards for review.*

A. The City shall not issue a final development order, or an extension or amendment to an approved development order, unless there is sufficient available capacity of public facilities to meet the established levels of service. The City shall not grant a final development order unless one of the following standards is met:

1. The necessary public facilities are available and in place at the time the development is authorized in accordance with the Comprehensive Plan; or

2. The development order is issued subject to the condition that the necessary public facilities will be in place when the impacts of the development occur; or

3. The necessary public facilities are under construction at the time the development is authorized; or

4. The necessary public facilities are guaranteed in an enforceable development agreement that requires that the public facilities will be in place, except transportation facilities, when the impacts of development occur and that the applicant or developer will pay a proportionate ~~fair~~ share of the costs incurred to fulfill the need for the facilities and services created by proposed development. The enforceable development agreement for improvements must be financially guaranteed by cash, letter of credit, or similar instrument approved by the Land Use Administrator on a form satisfactory to the City and issued by a financial institution acceptable to the City or Land Use Administrator; or

5. The final development order permits or approves development that is exempt from concurrency review as outlined in Subsection 7.04.02.

B. For transportation facilities, the facilities must be available, programmed, or contracted to be under construction within three years of the subject final development order, or consistent with

provisions of the Florida Administrative Code. The impact thresholds and spheres of influence for arterial and collector roads shall be consistent with sound and generally accepted engineering standards and principles. When transportation facilities or segments are identified as deficient through the Concurrency Management System, including transportation facilities maintained by the Florida Department of Transportation or another jurisdiction, the Proportionate ~~Fair-~~Share Program as provided in Section 7.07 may satisfy this requirement.

7.04.05. *Application for concurrency.*

A. *General requirements.*

1. Applications for concurrency may be submitted at any stage of development, but may only result in the issuance of a certificate of concurrency when issued in conjunction with a final development order.

2. For the purpose of the concurrency review, the maximum density or intensity allowed under the future land use and zoning designation shall be used, unless the applicant provides a development scenario. If an applicant provides a development scenario, concurrency will be determined based upon that scenario and the density or intensity of the subject property can not be increased without a new concurrency review.

3. Methodologies consistent with sound and generally accepted engineering and planning practices and principles shall be utilized to determine the impacts of proposed development and their effect on the available capacity of public facilities.

B. *Traffic study requirements.* An application for concurrency must include a traffic impact analysis (traffic impact analysis is synonymous with traffic impact study). The traffic impact analysis shall be consistent with sound and generally accepted engineering and planning practices and principles. In addition, the applicant is required to meet with the Land Use Administrator before conducting the traffic impact analysis to discuss appropriate methodology and/or mitigation proposals to be included in the traffic impact analysis. At a minimum the traffic study shall:

1. Identify the land use type of the proposed development, based on a generally accepted land use classification system (e.g., the North American Industry Classification System, the Land-Based Classification Standards, and/or Institute of Transportation Engineers Trip Generation Manual);

2. If the proposed development consists of multiple land uses, the traffic study must reflect the aggregated demand for capital transportation improvements generated by each land use type within the proposed impact-generating development;

3. Identify additional new trips (PM Peak Hour), additional vehicles (PM Peak Hour), current capacity/volume of affected roadway(s) (PM Peak Hour), available capacity/volume of affected roadway(s) (PM Peak Hour) before the proposed development, estimated capacity/volume of affected roadway(s) (PM Peak Hour), after the proposed development is complete (may be shown in phases of development), anticipated turning movements (PM Peak Hour), and additional anticipated roadway(s) capacities/volumes or improvements that may be needed to accommodate a reduced level of service identified through traffic study analysis; and

4. Utilize the latest edition of the Institute of Transportation Engineers Trip Generation, 11~~7~~th Edition or later.

The findings of a traffic study satisfying the above requirements, including approval by the Land Use Administrator regarding the acceptability of the proposed traffic study methodology, shall be considered valid and applicable for a period of one year after the date it was either received by the City.

(Ord. No. 2009-26, §§ 41—44, 12-15-09)

Sec. 7.05. - Certificate of Concurrency.

7.05.01. *General provisions.*

A. Certificates of concurrency may only be issued in conjunction with the issuance of a final development order.

B. Certificates of concurrency are not transferable to another parcel or parcels of real property. Certificates of concurrency shall benefit and run with the parcel of real property to which the application related subject to the limits prescribed in this chapter and shall contain detailed information relating to limitations on uses and development densities and intensities.

C. If an application for development is found to be exempt from the concurrency review of the Concurrency Management System review requirements of the Comprehensive Plan, this chapter, applicable requirements of the Florida Statutes, or state law, then, consistent with the provisions of this chapter, a certificate of exemption shall be issued without conditions being attached thereto.

D. If a parcel of real property is not vested by the concurrency provisions of the Comprehensive Plan, this chapter, or applicable requirements of the Florida Statutes, a certificate of concurrency shall be valid for so long as the underlying development order relating to the subject real property, or a subsequent development order issued during the good faith continuation of the development, is valid.

7.05.02. *Reservation of capacities.*

A. *Reservation process.* The purpose of the public facility capacity reservation process is to afford property owners and developers the assurance that adequate capacity for requisite public facilities will be available when needed for a particular project, and to provide a higher degree of certainty during the construction financing process. The reservation process requires the applicant to reserve public facility capacity at the time of issuance of the certificate of concurrency.

B. *Reservation fees.* Unless the applicant provides other assurances acceptable to the City that adequate public facilities will be available concurrent with the impacts of development (such as, by way of example, a binding development agreement), all facility reservation fees shall be paid prior to the issuance of a certificate of concurrency and before authorization of any construction, pursuant to the provisions of this chapter. For phased development, the binding development agreement shall include the number of phases, quantity of development associated with each phase, the timing of facility reservation fee payments, and provisions that ensure that development of each phase will not commence until the facility reservation fees have been paid. The applicant shall pay all facility reservation fees due at the time of, and as a condition precedent to, the issuance of a building permit relating to the project, with said fees being paid at the rate in effect at the time of building permit issuance. Each facility reservation fee shall be calculated on the same basis as the application for a certificate of concurrency. Said fees shall be paid as follows:

1. For each public facility, the facility reservation fee shall be an amount equivalent to the then applicable City impact fee. All impact fees shall be required to be assessed and paid as a condition of receiving a building permit pursuant to the impact fee rate schedules in effect at the time a building permit is issued. However, each facility reservation fee previously paid shall be credited towards the corresponding impact fee as a per unit fixed-dollar deduction from the applicable impact fees at the time of building permit issuance.

2. For reservation of roadway capacity, applicants may select to reserve capacity for a fixed period of time, the periods of time being from one year to three years with associated scaling based on amount of the reservation fees paid. The scaling amount to be paid to secure the reservation would be:

    33% of total impact fee amount for one-year reservation period;

67% of total impact fee amount for two-year reservation period;

100% of total impact fee amount for three-year reservation period.

The Developer shall be required to pay the remainder of the required total impact fee amount due at the time of, and as a condition to, receiving a building permit. The scaled reservation fees paid previously shall be credited toward the impact fee in effect at the time of the building permit, and shall be on a dollar-for-dollar basis.

3. For water and sewer services, the facility reservation fee shall be an amount equivalent to the then applicable capacity fees and on the basis of the rates then in effect pursuant to the applicable rules, regulations, and requirements.

C. *Refund of reservation fees.* If a final development order is not issued, expires, or is surrendered pursuant to an amending development order issued by the City or an amending development agreement, an applicant may request in writing, and the City shall issue, a refund of facility reservation fees, excluding the processing fee, if the appropriate following conditions are met:

1. For all public facilities (i.e., transportation facilities, solid waste facilities, sanitary sewer, potable water, drainage facilities, schools, and parks and recreation facilities), capacity shall be surrendered and thereupon a refund shall be made by the City at the earlier of either of the following events occurring:

a. A determination has been made by the Land Use Administrator that such refund shall not require or result in the elimination, deferral, or delay of a project which is needed to maintain the adopted level of service of the Comprehensive Plan.

b. Another development is paying like facility reservation fees for the public facilities associated with the development for which the facility reservation fees are requested to be refunded. Like facility reservation fees shall be deemed those fees associated with and collected from another development paying the same impact fees relating to the same impacts on concurrency public facilities.

D. *Subject to required permits.* All water and sewer reservations of capacity shall be subject to the issuance of all required permits from the Florida Department of Environmental Protection and any other applicable agencies.

E. *Vested developments.* If a development is vested under this chapter, the requirements relating to the payment of impact fees and connection fees shall fully apply. If the payment of connection fees for water and sewer service is required to reserve capacity, such payment must occur. Vested status does not guarantee the availability of water or sewer capacity.

7.05.03. *Expiration.* Reservations of a certificate of concurrency shall run with the life of the development order, unless otherwise noted in Subsection 7.05.02, Reservation of Capacities.

7.05.04. *Cease and continuance.* If a public facility to be provided by an applicant is not available at the time of the development's impacts, further development shall cease until all required public facilities are constructed. If a public facility to be provided by an applicant is included in a binding contract, but the construction is behind schedule, development may continue, but no releases for final electrical service or certificates of occupancy shall be issued until the facility has been accepted or approved by the City. If, however, a public facility is to be provided by the City and is not completed on time, development may continue within the conditions in the development order; provided, however, that certificates of occupancy or releases for final electrical service shall not be issued until potable water, sanitary sewer, and solid waste capacities are available.

Sec. 7.06. - Phasing of Vested Development.

A. Developments which have been granted development rights or have been determined to be vested shall be required by the Land Use Administrator to enter into a development agreement, if a similar

agreement has not been previously entered, which development agreement sets forth a reasonable schedule for the completion of development and, accordingly, the impacts upon public facilities.

B. Development agreements for vested developments should be entered prior to the preconstruction conference being held.

C. Each development phase shall begin on the date the preconstruction conference is held and shall terminate upon the issuance of a certificate of completion relating to a defined part of the overall development plan. The preconstruction conference for a subsequent phase must occur within two years of the issuance of the certificate of completion of the prior phase in order to retain vested status.

D. No phased development, except for Development of Regional Impacts, may have a build-out schedule exceeding 20 years.

Sec. 7.07. - Proportionate ~~Fair-~~Share Program.

7.07.01. *Purpose and intent.* The purpose of this section is to establish a method to mitigate the impacts of development on transportation facilities by the cooperative efforts of the public and private sectors, and shall be known as the Proportionate ~~Fair-~~Share Program.

7.07.02. *Applicability.* The Proportionate ~~Fair~~-Share Program shall apply to all developments in the City that impact a road segment or intersection in the Concurrency Management System, including transportation facilities maintained by Florida Department of Transportation or another jurisdiction that are relied upon for concurrency review, and that have been notified that a failure to achieve transportation concurrency on a roadway segment, segments, or intersection(s) exists. The Proportionate ~~Fair~~-Share Program does not apply to developments meeting the de minimis standards under F.S. § 163.3180 ~~(6)~~ or to developments exempted from concurrency.

7.07.03. *General requirements.*

A. An applicant may propose satisfying the transportation concurrency requirements of the City by making a proportionate ~~fair~~-share contribution, pursuant to the following requirements:

1. The proposed development is consistent with the Comprehensive Plan and this Land Development Code.

2. The 5-year Capital Improvement Program includes transportation improvement(s) that, upon completion, will mitigate additional traffic generated by the proposed development, as determined by the Land Use Administrator, and in accordance with the proportionate ~~fair~~-share statute.

B. The Land Use Administrator may determine to allow an applicant to satisfy transportation concurrency through the Proportionate ~~Fair~~-Share Program by contributing to an improvement that, upon completion, will mitigate the impact of additional traffic generated by the proposed development, as projected by City staff, using best available data and methodologies, but is not contained in the Capital Improvement Program, where one of the following apply:

1. The City adopts, by resolution or ordinance, a commitment to add the improvements to the next 5-year Capital Improvement Program no later than the next regular update. To qualify for consideration under this section, the proposed improvement must be reviewed by the Land Use Administrator and must be determined to be financially feasible. "Financially feasible" means that additional developer contributions, payments, or other funding sources are anticipated during a period not to exceed ten years, to fully mitigate the specified impact(s) on the identified transportation facility or facilities and in accordance with the proportionate ~~fair~~-share statute.

2. If the Land Use Administrator determines that the funds in the Capital Improvement Program are insufficient to fully fund construction of a transportation improvement required by the Concurrency Management System, then a proportionate ~~fair~~-share payment may be required for another improvement which will, as determined by the Land Use Administrator,

significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate ~~fair~~-share component shall be adopted into the next 5-year Capital Improvement Program at the next annual Capital Improvement Element update.

C. Any improvement project proposed to meet the developer's ~~fair~~-share obligation must meet generally accepted design standards applicable for the Florida Department of Transportation maintained roadways and/or City maintained roadways, whichever is applicable.

7.07.04. *Application process.*

A. The Land Use Administrator shall notify an applicant in writing if a failure to satisfy transportation concurrency requirements occurs. Upon receipt of such notice, an applicant may submit a proposed proportionate ~~fair~~-share calculation to the Land Use Administrator for review.

B. Pursuant to F.S. § 163.3180 ~~(16)(e)~~, proposed proportionate ~~fair~~-share mitigation for development impacts to facilities on the Strategic Intermodal System requires the concurrence of the Florida Department of Transportation. Improvements to non-Strategic Intermodal System Florida Department of Transportation maintained roadways shall likewise require Florida Department of Transportation review and approval.

C. The Land Use Administrator shall determine whether a proportionate ~~fair~~-share calculation is sufficient and eligible and is consistent with professionally accepted engineering practices. Upon a finding of sufficiency, a proportionate-share agreement will be prepared between the City and the applicant. The agreement shall include, but not be limited to, the amount of payment, description of work, estimated construction costs using the projected future cost of the improvement (at the time payment is due) and data, and the timing of payment. All proportionate-share agreements are subject to approval by the City Council.

7.07.05. *Determining proportionate ~~fair~~-share obligation.*

A. Proportionate ~~fair~~-share mitigation for concurrency impacts may include, but are not limited to, separately or collectively, private funds, contributions of land, and construction or contribution of transportation improvements.

B. A development shall be required to pay only its proportionate ~~fair~~-share. The calculated value of the proportionate ~~fair~~-share mitigation for the impacted transportation facilities shall not differ regardless of the method of mitigation.

C. The methodology used to calculate an applicant's proportionate ~~fair~~-share obligation shall be as provided for in F.S. § 163.3180 ~~(12)~~, as follows:

Proportionate Share = Σ[[(Development Trips;sub*sub;)/(SV Increase;sub*\sub;)] x Cost;sub*sub;]-Impact Fee Credits*

*Where:*

*Development Trips = those trips from the development that are assigned to roadway segment i and have triggered a deficiency per the Concurrency Management System;*

*SV Increase = Service volume increase provided by the eligible improvement to roadway segment i;*

*Cost = Adjusted cost of the improvement to segment i. Cost shall be based on the most recent cost and market data and shall include all improvements and associated costs, such as design, right-of-way acquisition, stormwater ponds, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred;*

*Impact Fee Credits = Used where applicable. More specifically, impact fee credits for the proportionate ~~fair~~-share obligation will be determined when the transportation impact fee*

*obligation is calculated for the proposed development. Impact fees owed by the applicant will be reduced based on the Proportionate ~~Fair~~-Share Agreement as they become due, according to this Code. If the applicant's proportionate ~~fair~~-share obligation is less than the development's anticipated road impact fee for the specific stage or phase of the development under review, then the applicant or its successor must pay the remaining impact fee amount to the City pursuant to the requirements of the impact fee code. Any impact fee paid in excess of the impact fee obligation for the proposed development may be applied to the calculated proportionate-share amount.*

D. *For the purposes of determining proportionate-share obligations, the Land Use Administrator shall determine improvement costs based upon the projected future cost of the improvement, as obtained from the Capital Improvement Program or another method approved by the Land Use Administrator. Cost for Florida Department of Transportation facilities shall be based upon Florida Department of Transportation cost estimates.*

E. *The City may accept rights-of-way dedication for all, or a portion of, the proportionate ~~fair~~-share payment. Credit for the dedication of the non-site related right-of-way shall be assigned a value by Land Use Administrator or, at the option of the applicant, by ~~fair~~ market value established by an independent appraisal approved by the Land Use Administrator prepared at no expense to the City.*

1. *At the option of the applicant, the reimbursement is to be based on either the assessed value of the proffered land, based on the most recent appraisal by the Flagler County Property Appraiser, or the ~~fair~~ market value of the land, as determined by a certified property appraiser hired and paid for by the applicant. If the latter option is chosen and the City rejects the applicant's appraisal, the City may hire and pay for a second appraiser to appraise the property. If either party rejects the second appraisal, a third appraisal may be performed by an appraiser chosen by the first and second appraisers, the costs of which are to be shared equally by the City and the applicant. The third appraisal is binding to both parties. All appraisals must be consistent with generally accepted appraisal techniques, and the date of valuation must be the proposed date of transfer to the City.*

2. *The applicant shall supply to the City, a survey and legal description of the land and a certificate of title search of the land at no expense to the City. If the estimated value of the right-of-way dedication proposed by the applicant is less than the City estimated total proportionate ~~fair~~-share obligation for that development, then the applicant shall also pay or provide for mitigation of the difference.*

*7.07.06. Impact fee credit for proportionate ~~fair~~-share mitigation.*

A. Transportation impact fees shall be applied as a credit against proportionate ~~fair~~-share mitigation only if the proposed improvement is on the list of approved projects in the current 5-year Capital Improvement Program, or as amended by the next regular update, or in the first five years of the current 10-year Capital Improvement Program and the City's impact fee program. Credits may also be given to proposed improvement that will be incorporated into the next, or following, 5-year Capital Improvement Program. Impact fee credits shall be calculated at the same time as the applicant's proportionate-share obligation is calculated.

B. Any transportation impact fee credit based upon proportionate ~~fair~~-share contributions for a proposed development cannot be transferred to any other parcel or parcels of real property within the City.

7.07.07. *Appropriation of ~~fair~~-share revenues.*

A. Proportionate ~~fair~~-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the Capital Improvement Program.

B. In the event a scheduled facility improvement is removed from the Capital Improvement Program, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor that would mitigate the impacts of development.

7.07.08. *Additional programs.* The City may utilize any program relating to concurrency as may be permitted by state law.

(Ord. No. 2009-26, § 45, 12-15-09)

Footnotes:

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**Editor's note—** Ord. No. 2018-24 , § 2, adopted Nov. 6, 2018, repealed ch. 9 and enacted new provisions to read as herein set out. Former ch. 9, §§ 9.01—9.07, pertained to similar subject matter, and derived from Ord. No. 2009-26, §§ 46—48, adopted Dec. 15, 2009.

Sec. 9.01. - General provisions.

9.01.01. *Purpose and intent.* The purpose of this section is to set forth engineering design regulations for residential and nonresidential uses as required in this Land Development Code. This section sets forth uniform regulations, requirements, and procedures to protect the health, safety, and welfare of the citizens and to assure quality of life to the citizens of the City. The Land Use Administrator may adopt technical manuals that relate to technical requirements pertaining to the City's water, wastewater, reclaimed water, drainage, street, and other systems.

9.01.02. *Applicability.* The design and construction requirements shall apply to:

A. Nonresidential and residential subdivision projects (applies to subdivisions with private or public roadway dedications);

B. Nonresidential and residential construction projects; and

C. City and other public agency owned projects.

9.01.03. *General requirements.*

A. *Utility lines.*

1. Utility lines for all new development projects shall be installed underground. Switchgear, pumps, transformers, and other appurtenances shall be allowed aboveground, but shall be shielded with landscaping as required in this Land Development Code. Connections from distribution lines, mains, and collectors in the public or utility rights-of-way or easements shall be placed underground.

2. All redevelopment projects shall relocate existing on-site overhead utility lines underground, within project limits. The Land Use Administrator may allow exceptions to this requirement if it is determined that such relocation is not feasible based upon the unique configuration of the real property.

3. For all new private and public development projects, underground communications conduit(s) shall be installed in accordance with City standards.

B. *Traffic control devices.* All traffic control devices shall meet the more stringent requirements of all of the following using the latest edition or publication: 1) ~~the latest edition of~~ the Manual on~~of~~ Uniform Traffic Control Devices, 2) Florida Department of Transportation ~~Design~~ Standard~~s Road and Bridge~~ Technical Specifications for Road and Bridge Construction, 3) Florida Highway Administration Standard Highway Signs, and 4) Florida Department of Transportation Traffic Engineering ~~and Operations~~ Manual~~s~~.

9.01.04. *Construction plans submittal requirements.*

A. Construction Plans and Calculations shall be prepared, signed, and sealed by a Florida Licensed Professional Engineer or other Licensed Professional qualified in the appropriate field for which the Construction Plans and Calculations are prepared. Plans and calculations shall be submitted for review in accordance with the City's Development Review Process.

B. The City shall establish submittal checklists relating to the required contents of all Development Review submittals. The checklists shall establish minimum requirements for the contents of

Construction Plan and Design Document submittals. Additional information may be requested if the City believes the information is reasonably necessary in support of drainage analysis; including maps, charts, tables, graphs, photographs, narrative descriptions, additional calculations, explanations, and citations to support references as deemed appropriate to communicate the required information for reasonable evaluation of the site.

C. Grading and drainage plans shall include existing and proposed contours at one-foot (min.) intervals with spot elevations as needed for clarity and to adequately depict drainage patterns.

D. Topographic survey for half of right-of-way adjacent to project for full length of frontage, including existing driveways and right-of-way intersections within 100 feet of site, showing drainage structures, signage, and utilities.

E. Section views of all proposed retention/detention ponds, swales, berms, etc. showing 25-year stormwater elevation and top of bank elevation.

F. Construction details for all proposed manholes, inlets, and other stormwater control structures.

G. Location, size, length, and elevations of all proposed piping systems and related control structures.

H. Erosion control plans shall be on a separate sheet with existing and proposed contours.

I. Legends shown with all abbreviations and symbols identified.

J. Copies of permits from all regulatory agencies having jurisdiction over the project (prior to commencement of construction).

K. Phasing of development. The phasing of development is allowed as part of approval of a site plan or a Subdivision Preliminary Plat in accordance with the following standards:

1. Phasing of approved development shall be in keeping with an approved phasing plat that shows phase boundaries and describes included development and improvements.

2. Each phase shall be designed and constructed to include all improvements and other aspects of development necessary to meet all requirements of the Code and all other applicable regulations. Each phase shall require a site development permit.

( Ord. No. 2018-24 , § 2, 11-6-18)

Sec. 9.02. - Platting requirements.

9.02.01. *Purpose.* The purpose of this section is to establish requirements for the subdivision of land in the City and to ensure compliance with F.S. Ch. 177 .

9.02.02. *Subdivision design standards.* In addition to the requirements stated in other sections of this Code, subdivisions shall be designed according to the following:

A. *Lots.* All lots shall conform to the dimensional, yard, and building setback requirements of the applicable zoning district development standards. In addition, the following requirements shall apply:

1. *Width.* Lots fronting on a curve (ie. cul de sac) ~~All lots~~ shall have a minimum street frontage of 20 feet. The ~~, and those fronting on a curve shall meet the~~ minimum lot width shall be measured at the front setback line. Corner lots shall be 15 percent greater in width than the minimum required width of interior lots.

2. *Depth.*

a. Corner l~~L~~ots ~~along arterial streets~~ shall be deep enough to accommodate the two required front yard setbacks.

b. Flag lots are prohibited ~~unless approved as part of a Master Planned Development~~.

3. *Orientation.* Residential lots shall be designed so vehicular ingress and egress to/from those individual lots is not provided from abutting limited access roadways or arterials.

B. *Permanent reference markers.* A registered land surveyor shall install permanent reference monuments, permanent control points, and state plane coordinates in accordance with State laws and professional standards. These must be inspected by the second party surveyor to certify they have been set in the field prior to final plat approval or recording of the mylar.

9.02.03. *Easements.*

A. *Drainage easements.*

1. Drainage easements of a width required for conveying and maintaining an adequate storm drainage system shall be provided. Minimum width for piped systems shall be 1~~5~~0 feet plus the pipe diameter plus 2 feet for each foot of depth below grade to the bottom of the pipe, and 15 feet for open channels plus channel width, measured from top of bank to top of bank. Where deemed necessary by the Land Use Administrator or designee, additional easements and increased width may be required along waterways, natural watercourses, canals, and drainage ways.

2. Whenever a subdivision lies wholly or partly in any area for which the City has adopted a drainage plan, and is traversed by a natural or designed watercourse for which such plan requires a drainage easement or right-of-way, such easement or right-of-way shall be set forth on the preliminary and final plat and shall be dedicated to the City for public use.

B. [*Stormwater storage facilities.*] Stormwater storage facilities shall be constructed to provide adequate access for maintenance. An access and maintenance easement of ten feet around the perimeter of wet ponds and five feet around the perimeter of dry ponds, measured from top of bank, shall be provided for detention facilities. Maximum grade for maintenance easement shall be ten percent. Easements for stormwater facilities shall be given to the City. The City may but is not obligated to inspect and maintain the facility and bill the development for the work done. Stormwater management facilities, as defined, such as ponds, lakes are prohibited to be included in a platted lot.

C. [*Stormwater management systems.*] Stormwater management systems must be designed to accommodate maintenance equipment access and to facilitate regular operational maintenance (such as underdrain replacement, unclogging filters, sediment removal, mowing, and vegetation control).

D. *Utility easements.* Utility easements for both underground and aboveground facilities shall be provided where required by the Land Use Administrator. Such easements shall have a minimum width of ten feet and shall normally be laid out on property lines. In all cases, such easements shall be dedicated to the perpetual use of the public. Where lots abut along a common property line, the easement may be centered along said common property line.

E. *Pedestrian paths and sidewalk easements.* Pedestrian easements or walkways shall be provided through the interior of lots where such easements are required by the Land Use Administrator. Pedestrian easements shall be at least eight feet wide, or walkway width plus two feet, whichever is greater, and shall be laid out along the side or rear property lines. In all cases, such easements shall be dedicated to the perpetual use of the public.

F. *Private easements.* Private easements (or spite strips) between the road and the subdivision boundary or between subdivision boundaries shall not be permitted unless conditions are established under which the adjacent parcel can be connected to the road or adjacent property.

G. *Easements and right-of-way maintenance.* The City will maintain only those easements, rights-of-way, and public sites which it accepts for maintenance.

H. *Vacation of easements.* An easement may be vacated by a replat of the plat in which the easement was dedicated, or via a resolution of the City Council, based on the best interests of the public. The only easements eligible for vacation by resolution are easements which have been previously dedicated and accepted, such as with the approval of a plat. The applicant must submit recommendation letters from utility companies; and a survey and legal description of the area to be vacated; and must show that the easement should be vacated due to utility reroute, non-use of the easement, or that the easement is no longer needed for public purposes. The City can vacate only "public" easements located within the City which are dedicated to the City or to the public. Upon receipt of a vacation request, the City Clerk will publish a notice of public hearing, and shall notify property owners within the block where the easement is located of the public hearing by certified mail, return receipt requested. In addition, the applicant must post the notice at each end of the easement to be vacated, not less than 14 days prior to the public hearing. An affidavit of proof of posting must be submitted to the City Clerk not less than seven days prior to the hearing.

9.02.04. *Plat approval.* Prior to the City ~~Council hearing for~~ approval of a final plat, the developer must submit all required documents, recording costs, ~~and~~ fees~~,~~ and~~:~~

~~A.~~ p~~P~~rovide a cost estimate as outlined in 9.02.05.A.1.~~If infrastructure improvements have not been commenced, a surety bond guaranteeing funds to construct all subdivision public improvements must be provided for City Council approval. After approval, the mylar can be processed for recording; or~~

~~B. If infrastructure improvements have commenced and are continuing in good faith, the final plat can go to City Council without a bond but the mylar will not be processed for recording until all infrastructure is complete, based on City approval of all final inspections in the site development permit, and the submittal of a maintenance bond.~~

9.02.05. ~~*Performance surety*~~ *Surety for subdivisions and site plan construction projects.* ~~At such time as the City agrees to accept the dedication of any public improvements, a performance guarantee in accordance with the standards in this section shall be required.~~ To ensure completion of public infrastructure improvements that are required as part of an approved site plan or final plat (E.g., streets, sidewalks, stormwater management facilities, potable water facilities, wastewater facilities, and streetlights), the developer shall execute performance and maintenance sureties that guarantee the required improvements against all defects in workmanship and materials, including failure to construct or to continue to construct in accordance with approved plans and specifications.

A. *Performance surety.*

1. *Plat and site plan performance surety amount.* A plat or site plan surety must be in the form of a cash bond, performance bond, or irrevocable letter of credit. The cost estimate amount of the surety shall be based on 120 percent of the sum of the following costs, as certified under seal by the project engineer of record:

   a. Required subdivision ~~public~~ infrastructure improvements costs.

   b. Costs of all required improvements relating to ~~public~~ road right-of-way.

   c. Costs of all required off-site ~~public~~ infrastructure improvements.

   The amount of surety is subject to approval by the Land Use Administrator.

2. *Performance surety release.* The performance surety will remain in full effect until action is initiated in writing by the applicant and action has been taken by the city for the release.~~Upon completion of all performance surety guaranteed improvements, applicable inspections, and acceptance by the City, performance sureties shall be released by the Land Use Administrator.~~

B. *Maintenance surety.*

1. *Plats and site plans with public improvements maintenance surety.* A maintenance surety for public improvements shall be submitted upon release of the performance surety. The maintenance surety provides a guarantee that the required improvements were completed without defects in workmanship and materials. The term of this guarantee shall be one year from the date of acceptance, unless the Land Use Administrator specifies a longer time frame.

2. *Maintenance surety amount.* The amount of the maintenance surety shall be based on 20 percent of the entire actual/present day costs of construction, including the costs of materials and labor for installing the required public infrastructure improvements. Actual costs for installing required public infrastructure improvements shall be itemized by improvement type as certified under seal by the project engineer of record, and subject to approval by the Land Use Administrator.

3. *Maintenance surety release.* The maintenance surety will remain in full effect until action is initiated in writing by the applicant and action has been taken by the city for the release. ~~The maintenance surety may be released no earlier than one year from the date of acceptance of the required improvements by the Land Use Administrator. This action must be initiated, in writing, by the developer.~~

9.02.06. *Compliance with design requirements.* All land development improvements shall comply with all the requirements of this Land Development Code, including those which contain design and construction information for the following:

A. Horizontal and vertical dimensional design requirements.

B. Roadway, parking, and vehicle access ways.

C. Pedestrian pathways, sidewalks, and recreational trails.

D. Storm drainage, potable water, reclaimed water, and sanitary sewer infrastructure improvements.

E. Clearing, earthwork, and grading.

( Ord. No. 2018-24 , § 2, 11-6-18)

Sec. 9.03. - Construction and inspection requirements.

9.03.01. *Purpose.*

A. The purpose of this section is to establish requirements for the inspection of the construction of all site development improvements on both residential and non-residential projects. The construction inspection procedures set forth in this chapter and in the City Technical Standards Manual ensure conformity of construction with approved development orders, this Land Development Code, and any conditions of approval.

B. Separate construction inspection requirements for water and sewer improvements are established in Part II of this chapter. Inspections shall be performed as required by the Land Use Administrator.

9.03.02. *Commencement of construction.* Commencement of construction or disturbance of land of any type is prohibited unless:

A. A final development order is issued in conjunction with a site development permit or applicable building permits;

B. All requisite federal, state, county, and City site work permits for the project are obtained. Certification by the engineer of record, along with copies of all required permits, may be required by the Land Use Administrator.

C. A preconstruction meeting for the project is scheduled and held with the City, unless deemed unnecessary by the Land Use Administrator.

9.03.03. Commencement of construction on early start residential projects (as covered under F.S. 177.073) and/or early start nonresidential projects is prohibited unless:

A. A final development order is issued in conjunction with an early start site development permit.

B. FEDP water certification or partial certification for the project are obtained. Certification by the engineer of record is required.

C. All required city related checklist items are obtained.

9.03.0~~4~~3. *Types of inspections.*

A. The following construction inspections shall be held during the course of the construction of the project infrastructure:

1. Scheduled mandatory key checkpoint inspections.
2. Scheduled or requested minor inspections and field conferences.
3. Unscheduled site visits and inspections.
4. Stormwater Pollution Prevention Plan (SWPPP) Inspections.
5. All other inspections required by the governing contract for a specific project.
6. Scheduled final inspection for punch list work.
7. Scheduled re-inspection of punch list work.
8. Scheduled final inspection walkthrough, as required prior to the developer submitting a request for the following:
   a. Release of surety and acceptance by City of a maintenance bond.
   b. Acknowledgement of completion of required subdivision improvements to allow final plat recordation.
   c. Acceptance of roadways dedicated to the City.

9.03.0~~4~~405. *Privately owned bridges.* Privately owned bridges shall meet the design, construction, inspection, maintenance, and reporting criteria in accordance with the Florida Department of Transportation and federal standards.

( Ord. No. 2018-24 , § 2, 11-6-18)

Sec. 9.04. - Stormwater management requirements.

9.04.01. *Purpose.* The purposes of the stormwater management requirements are:

A. To provide for design criteria and construction requirements to achieve effective stormwater management.

B. To minimize adverse impacts of land development and related construction activities to property, environmentally sensitive areas, water bodies, and other natural resources.

C. To improve the public health, safety, and welfare by providing for the safe and efficient capture and conveyance of stormwater runoff.

D. To encourage and facilitate urban water resources management techniques including, but not limited to, the retention/detention of stormwater runoff and the enhancement of the environment.

E. To promote low impact development alternative designs and prevent loss of life and/or property due to flooding.

9.04.02. *Activities requiring a permit.* A St. Johns River Water Management District Environmental Resource Permit (ERP) is required for construction, operation, and maintenance of a stormwater management system that serves a project meeting any of the following thresholds:

A. Any project in, on, or over wetlands or other surface waters;

B. A total of more than 4,000 square feet of impervious or semi-impervious surface area subject to vehicular traffic;

C. A total of more than 9,000 square feet of impervious and semi-impervious surface area;

D. A total project area of more than five acres;

E. A capability of impounding more than 40-acre-feet of water;

F. Any dam having a height of more than ten feet, as measured from the lowest elevation of the downstream toe to the dam crest;

G. Any project that is part of a larger common plan of development or sale;

H. Any dry storage facility storing ten or more vessels that is functionally associated with a boat launching area; and

I. Any modification or alteration of a project previously permitted under pt. IV of ch. 373 , F.S.

9.04.03. *Minimum design standards and performance criteria.*

A. Design and Performance Criteria for Stormwater Management Systems shall meet the requirements as outlined in St. Johns River Water Management District (SJRWMD) Regulations, contained in the Applicant's Handbook Volume II (AH Vol II).

B. The Stormwater Management Plan shall, at a minimum, address the following:

1. Impacts to adjacent and downstream stormwater collection, conveyance, and storage systems resulting from increased runoff rate and/or volume from the project site.

2. Impacts to adjacent and upstream runoff contributing areas that may be hydrologically or hydraulically connected to the project.

3. Impacts to adjacent and downstream areas resulting from sediments and other pollutants that may be carried by stormwater runoff during and after construction.

4. Impacts to "Special Flood Hazard Areas" or "Volume Sensitive" areas associated with the project.

C. Stormwater Treatment and Attenuation.

1. Projects that discharge runoff to downstream areas that are not volume sensitive and have adequate capacity to accept and convey stormwater runoff from the project site without increasing flood levels shall limit developed peak runoff rates to pre-developed runoff rates for the five-year, 24-hour and 25-year, 24-hour design storm events.

2. Projects that discharge runoff to downstream areas that are volume sensitive or do not have adequate capacity to accept and convey stormwater runoff from the project site without increasing flood elevations shall provide detention for the 25-year, 96-hour discharge volume

for developed conditions, such that the volume released from the project during the critical time period is not greater than the volume released during pre-developed conditions.

3. Projects that contribute to the City of Palm Coast Master Stormwater Management System, as defined in the Palm Coast Comprehensive Land Use Plan (CLUP) Volume 3, shall also be designed and constructed to limit developed runoff rates to pre-developed rates for the 100-year, 24-hour design storm event.

4. Projects that are constructed in phases shall meet the minimum design standards for each phase. No phase shall be dependent upon the construction of a future phase in order to meet these requirements.

5. Pond top of bank elevation shall be a minimum of twelve (12)~~six~~ inches above the maximum design storm elevation.

6. The Land Use Administrator (LUA) shall have the right to exempt any project from Section 9.04.03.C.1. and 2. above that discharges directly into the Intracoastal Waterway or Atlantic Ocean.

7. Stormwater system analysis shall include Pre-Development and Post-Development runoff hydrographs; routing the Post-Development runoff hydrographs through the stormwater storage system; and sizing of the storage system and discharge control structure(s) to meet the minimum requirements of this section. Stormwater discharge computations shall include storm frequency, storm duration, rainfall amount, rainfall distribution, hydrologic soil conditions, runoff coefficients, pond stage, storage, and discharge, changes in land use cover and slope conditions, off-site runoff contributing areas, time of concentration, tailwater conditions, and any other changes in hydraulic, hydrologic, and topographic characteristics associated with the development.

8. Control devices that are designed to contain more than two-foot depth of water within the structure during the design storm and have openings greater than one-foot minimum dimension shall be restricted from public access.

9. All stormwater basin side slopes shall be stabilized by either vegetation or other biodegradable materials to minimize erosion and sedimentation of the basins.

10. Wet detention stormwater management systems shall provide a littoral zone in accordance with AH Vol II.

D. Soils Investigations.

1. A geotechnical report, prepared by a licensed engineer or other professional authorized to perform such work under Florida Statutes, shall be submitted for stormwater storage facilities, systems, or open channels used as a dry retention/detention facility designed to contain standing water for less than 72 hours after the occurrence of a rainfall event, or using infiltration to meet the requirements of this Code. The report shall contain a soil boring log, boring locations, and any parameters that may affect the design or recovery of the facility including, but not limited to: estimated seasonal high water table, hydraulic conductivity, and locations of confining layers.

2. For dry retention systems, soil borings shall be of sufficient depth to determine the wet season high water table and the permeability of the soils.

E. Water shall not be diverted into a natural buffer area for retention purposes where such water level change will adversely affect the health or survivability of retained trees.

F. It is presumed that the lowering of the water table for the purpose of constructing detention/retention basins and for the purpose of permanently protecting road construction does not conflict with this Land Development Code if all of the following are met:

1. The development is permitted by the St. Johns River Water Management District and the City;
2. The lowering of the water table has no adverse effect on wetlands and surface waters as defined in 62-340, F.A.C.; and
3. The lowering of the water table does not increase flows to the detriment of neighboring lands.

G. Where stormwater and other waters drain from lands outside the City, facilities within the City shall be designed in accordance with this Land Development Code, as if the entire area being drained was within the City.

9.04.04. *Limiting conditions.*

A. Before any offsite discharge from the stormwater management system occurs, the retention and detention storage must be excavated to rough grade prior to building construction or placement of impervious surface within the area served by those systems. Adequate measures must be taken to prevent siltation of these treatment systems, and control structures during construction or siltation must be removed prior to final grading and stabilization.

B. Prior to and during construction, the permittee shall implement and maintain all erosion and sediment control measures (best management practices) required to retain sediment on-site and to prevent violations of state water quality standards. All practices must be in accordance with Section 9.04.06. If site specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediment beyond those specified in the erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with Section 9.04.06. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

C. The stormwater management system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of the site infrastructure. The system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the stormwater management system to another responsible entity.

D. If the permitted stormwater management system was designed by a registered professional, within 15 days of providing the required as-built certification to the St. Johns River Water Management District, or 45 days after completion of the stormwater system (whichever occurs first), the permittee must submit to the City a copy of Water Management District Form No. 62-330.310 (1) (As Built Certification By a Registered Professional), signed and sealed by an appropriate professional registered in the State of Florida.

E. Activities approved by this permit shall be conducted in a manner which do not cause violations of state water quality standards.

9.04.05. *Collection and conveyance.*

A. Stormwater collection and conveyance systems shall be designed, as a minimum, to convey runoff resulting from the ten~~five~~-year, 24-hour storm event. Collector roadway cross drains shall also be designed to convey the ten-year, 24-hour storm event.

B. Temporary roadway flooding shall not exceed an elevation that would permit flood water encroachment of more than one-half of a travel lane at the lowest elevation on the centerline profile of a roadway for the 25-year, 24-hour storm. Full recovery and use of the roadway must be available at the end of the design storm event.

C. Stormwater systems serving parking lots, or other non-residential property, shall be designed to collect and convey all stormwater flows into and through the system without creating adverse impacts to adjacent properties. The system shall recover from temporary ponding such that use of the parking area is available at the end of the storm event.

D. Minimum allowable pipe size for stormwater systems located within the City of Palm Coast right-of-way shall be 15 inches.

E. Design storm frequency for open channels shall be as follows:

1. Local roadway swales and ditches; ten~~five~~-year storm event.

2. Collector roadway swales and ditches; ten-year storm event.

3. Outfall ditches and canals; 25-year storm event.

9.04.06. *Erosion and sediment control.*

A. Erosion and sediment control Best Management Practices (BMPs) shall be used ~~as necessary~~ during construction to retain sediment and turbidity on-site. These management practices shall be designed and certified by an appropriate licensed professional experienced in the fields of soil conservation or sediment/turbidity control according to specific site conditions, and shall be shown on the plans for the stormwater management system. The Permittee shall have a licensed professional provide the contractor, as part of the Erosion and Sediment Control Plan or Stormwater Pollution Prevention Plan (SWPPP), information pertaining to the construction, operation, and maintenance of the erosion and sediment/turbidity control BMPs.

B. Best Management Practices shall be designed in accordance with the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (~~June 2007~~July 2013 or latest edition), and the Florida Stormwater, Erosion, and Sedimentation Control Inspector's Manual (FDEP ~~July 2008~~October 2018 or latest edition), as both are amended, and shall be shown on the "Grading and Drainage Plan" or on a separate "Erosion Control Plan".

C. Any sedimentation leaving the site or impacting adjacent areas shall be halted immediately and the adjacent areas restored to pre-existing conditions. Restoration efforts shall be coordinated with FDEP or SJRWMD, as appropriate, to ensure that the restorative activities are consistent with the Statewide Environmental Resource Permitting (SWERP) rules.

D. All areas disturbed by authorized construction activities shall be sodded, hydro-seeded and mulched, or protected by other appropriate erosion control measures. Banks or berms having a 3:1 slope or steeper shall be sodded.

1. Within City ROW only sod shall be accepted along slopes.

E. Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased.

F. Damage to private land, public rights-of-way, or other property shall be repaired prior to issuance of a certificate of occupancy or permit final. In case of damage to private property or to public rights-of-way, it shall be the joint and severable responsibilities of the permittee and contractor to make repairs as directed by the Land Use Administrator or designee.

9.04.07. *National Pollutant Discharge Elimination System Stormwater Program.*

A. The National Pollutant Discharge Elimination System (NPDES) Stormwater Program regulates construction activities that disturb one or more acres of land and discharge stormwater to surface waters of the state or into a Municipal Separate Storm Sewer System (MS4). An MS4 is a conveyance or system of conveyances such as roads with stormwater systems, municipal streets, catch basins, curbs, gutters, ditches, constructed channels, or storm drains. If a project is less than one acre, but part of a larger common plan of development or sale that will ultimately disturb one or more acres, permit coverage is also required.

B. NPDES Construction Generic Permit (CGP).

1. The operator is ultimately responsible for obtaining permit coverage and implementing appropriate pollution prevention techniques to minimize erosion and sedimentation from stormwater discharges during construction. The operator is the entity with sufficient authority to ensure compliance with the permit requirements. Typically, the operator is the owner, developer, or general contractor.
2. For construction projects where the operator changes, the new operator should obtain permit coverage at least two days before assuming control of the project, and the previous operator should file an NPDES Stormwater Notice of Termination (FDEP Form 62-621.300[6]) within 14 days of relinquishing control of the project to a new operator. The previous operator must meet the conditions to terminate coverage in accordance with Part VIII of the CGP.

C. Obtaining Coverage under the CGP.

1. Obtain and carefully read the CGP (available online at the Florida Department of Environmental Protection Website).
2. Develop a site specific SWPPP.
3. Complete in its entirety the application or Notice of Intent (NOI) (FDEP Form 62-621.300[4][b]).
4. Submit the NOI with the appropriate processing fee to the NPDES Stormwater Notices Center (Do not submit plans or a copy of the SWPPP when applying for coverage).
5. Provide a copy of the SWPPP and approved NOI to the City of Palm Coast (MS4 Operator).
6. Operators seeking coverage under the CGP must apply for permit coverage at least two days before construction begins.

D. SWPPP contents.

1. The SWPPP must identify potential sources of pollution that may reasonably be expected to affect the quality of stormwater discharge associated with construction activity. In addition, the plan shall describe and ensure the implementation of BMPs that will be used to reduce the pollutants in stormwater discharge associated with construction activity and ensure compliance with the terms and conditions of the permit.
2. The SWPPP must be developed before an NOI is filed in order to receive CGP coverage, and must meet or exceed FDEP requirements. Also, beginning on the first day of construction activities, the SWPPP must be available at the location identified in the NOI.

   If the location on the NOI is not at the construction site, a copy shall be provided to the City as well as any inspection forms completed as part of the SWPPP.
3. A SWPPP should consist of a narrative and a site map. The CGP also requires a certification statement to be signed by the operator. The SWPPP must be developed and implemented for each construction site covered by the generic permit and must be prepared in accordance with good engineering practices.
4. The narrative report shall include a site description and, at a minimum, the following information about the site:
   a. Description of the construction activity;
   b. Intended sequence of major soil-disturbing activities;
   c. Total area of the site and total disturbance area;
   d. Description of the soils and estimate of the size of the drainage area for each discharge point;

e. Latitude and longitude of each discharge point and the name of the receiving water for each discharge point; and

f. Site map indicating drainage patterns and slopes, areas of soil disturbance, undisturbed areas, locations of BMPs, stabilization areas, surface waters/wetlands, and discharge points.

5. Each plan must include a description of the appropriate controls, BMPs, and measures that will be implemented at the construction site. The plan must clearly describe for each major soil-disturbing activity the appropriate control measures and the timing for implementing these measures.

6. The plan shall also identify and ensure the implementation of appropriate pollution prevention and treatment measures for non-stormwater components of the discharge.

7. The preparer of the SWPPP or responsible authority must sign and date the following certification statement as part of the SWPPP:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information. These include the possibility of fine and imprisonment for knowing violations."

8. Contractor Certification Requirement: All contractors and subcontractors identified in the SWPPP, or those selected at a later date, must sign and date the following certification statement before conducting land disturbing activities on the site:

"I certify under penalty of law that I understand, and shall comply with, the terms and conditions of the State of Florida Generic Permit for Stormwater Discharge from Large and Small Construction Activities and this Stormwater Pollution Prevention Plan prepared there under."

9. A copy of the NOI or acknowledgment letter from FDEP confirming coverage must be posted at the construction site in a prominent place for viewing (such as alongside the building permit).

E. Retention of records. The permittee shall retain copies of the SWPPP and all reports required by the CGP, and records of all data used to complete the NOI to be covered by the CGP, for at least three years from the date that the site is finally stabilized. The permittee shall retain a copy of the SWPPP and all reports, records, and documentation required by the CGP at the construction site, or an appropriate alternative location as specified in the NOI, from the date of project initiation to the date of final stabilization.

F. Notice of termination (N.O.T.). Upon completion of the project and final stabilization, the permittee should submit a completed N.O.T. to the NPDES Stormwater Notices Center and the City of Palm Coast. The elimination of stormwater discharges associated with construction activity means that all disturbed soils at the site have been finally stabilized and temporary erosion and sediment control have been removed, or will be removed at an appropriate time.

( Ord. No. 2018-24 , § 2, 11-6-18)

Sec. 9.05. - Stormwater discharge pollutant control.

9.05.01. *Enforcement.*

A. All persons in violation of this regulation shall remedy such violations immediately. All persons in violation shall, in addition to all other required remedial actions, upon detection or written notification by the City, provide a written response outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of the corrective measures. All such proposals for corrective action are subject to the approval of the Land Use Administrator.

B. The Land Use Administrator or designee is authorized to issue ~~cease and desist orders~~a notice of violation in the form of a written official notices hand delivered, ~~or~~ sent by certified mail, and/or posted to the property to the person(s) believed to be responsible for the violation or the owner of the property from, or on which, the violation is believed to be occurring. Specific activities and operations may be ordered to cease based upon the following conditions:

1. In a situation that may have a serious effect on the health, safety or welfare of the public or the environment, including the quality of stormwater in the City's MS4; or

2. When irreversible or irreparable harm may result, in the reasonable opinion of the Land Use Administrator, and immediate cessation of the activity is necessary to protect the quality of the stormwater in the City's MS4, or to protect the public or the environment.

C. Should any person responsible for a violation of this regulation fail to take the remedial action as required by the City, the City ~~may~~ shall take such remedial action, and all costs incurred by the City shall be the responsibility of the person or persons responsible for the violation, and the City may record a lien against the personal and real property of the violator to recover said costs and to collect all fines and penalties imposed.

D. In addition to the remedies provided herein, the City may make application to a court of competent jurisdiction for injunctive relief to restrain any person from violating or continuing to violate the provisions of this regulation. In addition, the City may also seek entry of a court order requiring restoration and mitigation of any impacted facilities, land or waters, and may request any other appropriate legal remedy, including reimbursement of court costs. The City shall be entitled to an award of attorney's fees in prosecuting such actions, together with all attorney's fees and costs on appeal.

E. Any fines or other funds received as a result of enforcement action under this regulation and which are not used for the specific purposes enumerated herein shall be deposited into the stormwater utility fund.

F. The City may also use the City's Code Enforcement process to enforce violations.

( Ord. No. 2018-24 , § 2, 11-6-18)

Sec. 9.06. - Land modification of platted residential lots.

9.06.01. *Clearing and earthwork.*

A. With proper permits, the City allows the modification of land for purposes such as grading, filling, excavation, unsuitable soils removal, and certain tree removal on vacant residential lots as set forth in Chapter 11, prior to the issuance of a building permit. The only exception is for vacant single-family residential property, where "vacant" is defined as land that is in a natural vegetated state, or land that has been cleared of such vegetation but contains no impervious area. Persons desiring to modify a residential lot prior to the issuance of a building permit must apply for and obtain a Right-of-Way Access and Lot Grading Permit, and shall be subject to the following general permit conditions:

1. The lot, if vacant of any structures, must be directly adjacent to a lot with a permitted structure and both lots shall be under the same ownership.
2. Prior to performing any work, a copy of the permit shall be posted on the site.
3. If wetlands or endangered species are discovered, additional requirements may be imposed by the City to protect natural resources.
4. A time limit of four months shall be allowed from the date the permit was issued until the work is completed. When the work is completed, a final inspection shall be requested by the applicant. If the work is not completed within four months, the City will monitor the site and may initiate code enforcement procedures. Passing the final inspection shall mean that the work is complete.
5. The owner shall preserve trees and vegetation in accordance with the tree preservation requirements set forth in Chapter 11.
6. After completion of the work, the owner of the property shall request a final inspection from the City, which will confirm if the clearing was completed in accordance with the permits.
7. Prior to the final inspection the following shall be completed:
    a. Swales shall be graded to the proper grade and cross section.
    b. ~~After the swale has been graded and prior to sodding, a swale elevation survey shall be prepared by a Florida licensed land surveyor to verify the swale elevations are correct.~~
    c. All disturbed areas of the site and public road right-of-way shall be stabilized with vegetation. All rights-of-way and any areas subject to erosion shall be sodded in accordance with the Florida Department of Transportation Design Standards.
    d. All tree barricades, silt fences, and construction debris shall be removed from the site or adjacent sites, if present.
    e. Repair of all road damage associated with permitted work shall be jointly and severally the responsibility of the property owner and permittee, and shall be completed prior to the completion or expiration of the permit.
    f. Replacement trees, if required, shall be planted.

B. Vacant lots are exempt from this permit if the lot is only to be cleared by hand cutting of non-protected trees and removal of existing vegetation. This includes mitigation type mowing for wildfire control/mitigation. This exemption only pertains to platted single-family residential lots and not adjacent reserve parcels, unplatted lands, or stand-alone lots of any type.

9.06.02. *Construction on platted residential lots.*

A. Residential dwelling units, other structures, and surrounding site work on platted single-family residential lots, shall be designed and constructed in conformance with this Land Development Code. Property owners or their agents shall obtain a building permit from the City prior to the construction of any aboveground or underground structure.

B. In addition to a building permit, a Right-of-Way Access Permit shall be obtained from the City.

C. This article should be used in conjunction with all applicable sections of the City of Palm Coast's Technical Manual.

( Ord. No. 2018-24 , § 2, 11-6-18)

Sec. 9.07. - Utilities.

9.07.01. *Purpose.* The requirements and regulations contained in this section are established to ensure the adequate provision of potable water (water), fire protection/suppression, sanitary sewer (wastewater), and reclaimed water facilities necessary to:

A. Meet City level of service requirements;

B. Provide adequate service capacities for individual projects; and

C. Meet the requirements of other related codes and standards adopted by the federal, state, City, or regional agencies.

9.07.02. *General requirements.*

A. *Connection to the City utility system.* Unless specifically allowed otherwise herein, all water, fire protection/suppression, sanitary sewer, and reclaimed water improvements shall be designed to connect to the City's central utility systems.

B. *Construction standards.* The design and construction of facilities for providing water, fire protection/suppression, sanitary sewer, and reclaimed water shall comply with City standards and state regulations.

C. *Private potable wells.* The City will allow the use of individual potable water wells if approved by the St. Johns River Water Management District. However, for all new development that requires site plan or subdivision approval that is within one mile of central service, the development shall be required to connect to the central service. For development that does not require site plan or subdivision approval, the development shall be required to connect to the potable water system if central service is available within 150 feet of the lot line. In the event that central service is not available in either instance, the development shall be required to connect within one year from the date that central service becomes available.

D. *Private non-potable wells.* Irrigation systems and swimming pools may be served by a separate private water supply system provided that no interconnection of any kind occurs between the private system and the public utility system, its water mains, the utility's water service line, the customer's water service line, a building's potable water plumbing pipes, or any pipe or line connection or extension, and then only if reclaimed water service is not available. If and when available on the property, reclaimed water shall be used for all appropriate uses. The design, permitting, construction, and use of this type of well shall comply with the most current regulations of the Flagler County Health Department, the Florida Department of Environmental Protection, and the St. Johns River Water Management District, as appropriate.

9.07.03. *Potable water system.*

A. *Conditions precedent to water services.*

1. Water service may be activated if all permit conditions of the Florida Department of Environmental Protection are completed and the water distribution system has been approved and accepted by the City.

2. Except where otherwise permitted, all new development shall connect to the City's potable water system. New development shall pay all impact, installation, and line extension fees prior to the issuance of building permits or the initiation of service.

B. *Required meters.*

1. All residential facilities shall have individual meters for each dwelling unit unless a master meter installation is approved by the City in a utility agreement.

2. The property owner shall keep meter sites readily accessible with a minimum four feet of clearance around the meter/backflow assembly for meter reading and maintenance.

C. *Water mains location/sizing.*

1. Trunk lines shall have a pipe diameter meeting minimum requirements for fire flow and user consumption based on Florida Department of Environmental Protection regulations and standard engineering practices. Water mains shall be located within a public right-of-way or within a corridor (private rights-of-way) approved by the Land Use Administrator. All mains to which fire hydrants are connected shall be a minimum of six inches in diameter and in conformance with National Fire Protection Association (NFPA) standards. In no case shall a water main be smaller than four inches. To the maximum extent feasible, distribution lines shall be located parallel to and behind the back of the curb or edge of the pavement. Water mains shall be located to minimize conflicts with other utilities and existing or proposed structures.

2. All new development service lines and appurtenances thereto shall be installed and all costs shall be paid by the applicant. Upon construction completion and acceptance of the system, it shall be the design engineer's responsibility to ensure that the system is properly certified and accepted by the Florida Department of Environmental Protection, and that certified "as-built" drawings, consisting of one signed and sealed set of plans ~~plus a CD (compact disc) containing electronic files~~ are provided to the City in accordance with City standards. Under no circumstance shall the system be activated by anyone other than the Land Use Administrator.

D. *Booster pumps/fire protection systems.* It is prohibited and unlawful to modify or connect any booster pump or fire protection system to the City's potable water distribution system or to any water distribution system to which the City supplies water, except for consecutive public water systems, without the express written permission of the Land Use Administrator.

1. Any person planning to connect or modify any booster pump or fire protection system shall submit a detailed plan prepared by a Florida professional engineer to the Land Use Administrator for review and approval.

2. After submission of a detailed plan for connection or modification, the Land Use Administrator may approve the plan, with or without specified conditions or modifications, or reject the plan.

E. *Potable water backflow prevention devices.* All new construction shall have installed, on all potable water and fire prevention system lines, a backflow prevention device acceptable to Florida Department of Environmental Protection and of a size and design determined to be appropriate by the Land Use Administrator. All residential construction shall have a double-check device that shall be supplied and installed by the City at the owner's expense. All commercial lines two inches or smaller shall have a reduced pressure zone backflow preventer installed by the City at the owner's expense. All commercial or industrial construction lines larger than two inches shall have a reduced pressure zone backflow preventer or double-check detector/device (fire line only). The City approved device shall be installed at the owner's expense by a licensed contractor, inspected by the City, and certified by a licensed and certified backflow prevention technician or a certified City backflow prevention technician. All backflow prevention devices shall be installed and maintained in accordance with City standards.

F. *Fire line devices.* All fire line devices shall be installed and certified by a licensed fire protection contractor. The device shall be installed at a location determined by the Land Use Administrator. Where the device must be installed on private property, the location is subject to approval by the property owner. Backflow prevention devices on fire lines must be UL (Underwriters Laboratories) listed for fire protection systems. Backflow preventers shall be installed and maintained in accordance with City standards.

G. *Cross connections and interconnections.* It is unlawful for any person to cause a cross connection with the City's potable water system, reclaimed water system, wastewater system, or raw water system. All service connections shall comply with the City standards.

H. *Connection/temporary connection.*

1. The owner of each lot or parcel of land within the City proposed for occupancy for any use shall cause such building, structure, or use to be connected to the public water distribution system of the City, and shall use such facilities at the same time as a certificate of occupancy is issued, or sooner, with prior approval by the City.

2. For temporary connection to the City water system for construction not involving new lines, a metered connection to a fire hydrant may be permitted. The meter and backflow preventer shall be supplied by the City and the user must comply with City standards.

I. *Utility line extensions—Service line extensions.* Service line extension requests shall be submitted to the Land Use Administrator for approval. If approved, the applicant may proceed with the installation of the service line extension after coordinating installation with the Land Use Administrator. All costs associated with the utility line or service line extension shall be the applicant's responsibility. All work and connections shall be performed by a Florida licensed contractor licensed to perform underground utility work.

J. *Utility main extension reimbursement policy.*

1. Procedure for the utility main extension reimbursement policy. In the event that any person or developer is required by the City to extend water, sewer, or reclaimed water lines or increase line size to a size larger than the minimum line size required for that development's needs, that person or developer may request reimbursement for the additional cost of such extension or increased line size in accordance with the following procedures:

a. Engineering drawings and design calculations shall be submitted to the Land Use Administrator indicating the size and location of the proposed lines or the appurtenances thereto. The submittal shall also include preliminary cost estimates showing the cost difference for construction of the proposed oversize main versus the cost for the minimum size main that would be required to serve the parcel or development in accordance with the City's design standards.

b. The Land Use Administrator shall review the entire submittal and shall make a determination of the eligibility of the proposal for reimbursement, based on the conformity of the proposed improvements with City standards and with the criteria established in Section 9.06.03.C.

c. The City may enter into an agreement for reimbursement with the person making the submittal based on a finding that the trunk line(s) and appurtenances thereto comply with City standards. The agreement between the City and the person or developer will, at a minimum, include timeframes and conditions of reimbursement. The trunk line(s) and appurtenances are required to be appropriately sized and located. Adequate water and sewer treatment plant capacity must exist for the area anticipated to be served.

9.07.04. *Sanitary sewer systems, industrial wastes, and low pressure effluent pumping system.*

A. *Conditions precedent to wastewater service.* Wastewater service will be available only after all permit conditions of the Florida Department of Environmental Protection are complied with and the wastewater collection system has been approved and accepted by the City.

B. *Wastewater connection required.*

1. Except where otherwise permitted, all new development shall connect to the City's sewer system, as required by state law. New development shall pay all impact, installation, and line extension fees prior to the issuance of building permits or the initiation of service.

2. If the City sewer system is available as defined by law, all existing development is required to connect within one year from the date of notice of system availability. The owner of the property shall pay for all connection impact, installation and line extension fees.

3. Upon agreement by the City, and approval of the Department of Health, connection to the City sewer system may be deferred until it is deemed in the public interest to make connection mandatory due to financial or public health considerations.

4. The City may refuse wastewater from any lot or parcel of land upon which there is located any institutional, commercial, or industrial plant, building, or premises that does not comply fully with City standards; or that does not utilize City water; or that does not supply proper metering of its wastewater.

5. The discharge of wastewater into the City sanitary sewer system from air conditioning/heating units is prohibited.

C. *Wastewater design and inspection.*

1. The developer shall install house or site service connections. Each property connected to the sanitary sewer system shall have a cleanout or manhole located at the property line for cleaning the service from the cleanout to the sanitary main.

2. It is prohibited and unlawful to enter the City sewer system or appurtenance thereto, or make any connections thereto without the approval of the Land Use Administrator. It is unlawful for any person to tap, cut, or in any way use any line, branch, or part of the City sewer collection or sewage treatment facilities without such approval.

3. The Land Use Administrator, as a condition of the City providing utility service, shall be permitted to enter upon all properties for the purpose of inspection, observations, measurement, sampling, and testing.

D. *Lift (pumping) stations.* All lift stations to be dedicated to the City for ownership and maintenance shall conform to the requirements of this section and City standards and shall be designed as submersible stations.

1. Prior to the construction of a lift station, the applicant's engineer shall submit construction drawings and design calculations for review and approval by the City.

2. All lift stations shall be dedicated by a fee simple interest conveyance to the City for ownership and maintenance responsibility, unless otherwise approved by the Land Use Administrator.

3. Lift station sites shall have unimpeded access for emergency maintenance vehicles and shall restrict access to the wet well, valve vault, and electric control panel to prevent entry by unauthorized individuals.

E. *Industrial waste pretreatment and disposal.*

1. Generators of industrial waste that are deposited into the City sanitary sewer shall comply with the pretreatment and disposal requirements of the City.

2. All users shall comply with Florida Department of Environmental Protection permit conditions and any other applicable federal and state regulations to which the Publicly Owned Treatment Works are subject.

3. All pretreatment and disposal systems and appurtenances shall be designed to meet all applicable requirements of the Florida Department of Environmental Protection, Flagler County Health Department, and the City, to prevent the introduction of pollutants into the sanitary sewer system which will interfere with the proper functioning of the system or cause or contribute to the contamination of receiving waters or the atmosphere.

9.07.05. *On-site wastewater treatment/disposal systems.* On-site wastewater treatment may be permitted by the City only in the EST-1, EST-2, and AGR Districts and in conformity to this section.

A. *Permit required.* A septic tank permit shall be obtained from the Flagler County Health Department prior to the issuance of a building permit. However, a building permit shall not be issued for the construction of such facility unless consistent with the Comprehensive Plan and this Land Development Code.

B. *Design and performance standards.*

1. A copy of the permit received from the Flagler County Health Department and all related information or documentation shall be submitted to the City.

2. Individual wastewater treatment/disposal systems, such as septic tanks, shall be located in an area that can be incorporated into a central sewer system when available. Systems shall be constructed and operated to ensure that they, either on an individual or cumulative basis, will not adversely impact public health or natural resources or cause undue expense to the City.

3. On-site wastewater treatment is prohibited in areas served by centralized wastewater treatment. Where septic tank use is permitted, septic tank systems shall be installed in conformance with the Flagler County Health Department requirements. Development shall be prohibited unless an alternative on-site disposal system (e.g., package-type wastewater treatment plant) is determined by the Land Use Administrator to be sufficiently effective to prevent degradation of adjacent surface waters or groundwater by the Florida Department of Environmental Protection, Flagler County Health Department, and the City, and provisions for the plant's eventual retirement and connection of the development to the central sanitary sewer system are adequate and binding.

4. The installation of on-site sewage disposal and treatment systems on sites one acre or less is prohibited. Sites greater than one acre of contiguous upland area in areas designated as Greenbelt on the City's Future Land Use Map that are served by municipal potable water service may be served by on-site sewage disposal systems if site environmental factors are appropriately addressed and the systems are installed in accordance with all applicable state and local regulations. If public potable water supply service is not available, the minimum site for the installation of on-site sewage disposal systems shall be two acres.

9.07.06. *Interim "package-type" wastewater treatment facilities.* The use of interim or package-type wastewater treatment facilities shall be subject to approval by the City Council based on an agreement that specifically provides for the eventual transition to City facilities. These facilities shall meet the following design and performance standards.

A. Small package-type wastewater treatment plants, as defined below, shall not be permitted in areas where improper levels of treatment and/or inadequate effluent disposal may result in adverse impacts on water or other natural resources (e.g., groundwater aquifers and surface water systems), unless the plant's owner provides sufficient financial resources or surety for the City to assume responsibility for operating and maintaining the collection, treatment, and effluent disposal components in compliance with regulatory requirements and standards. The following minimum criteria and procedures shall be adhered to in the implementation of this Code:

1. Small package-type wastewater treatment plants are defined as prefabricated and component assembled plants of 100,000 gallons or less per day of treatment capacity, or any plant which is considered or identified to be of an interim nature.

2. The location and siting of such facilities shall be limited to areas where improperly treated effluent shall not adversely impact the quality of regional water resources by lateral surface/subsurface flow or by percolation.

3. Existing package-type or interim wastewater treatment plants currently meeting treatment and effluent quality standards may continue to be operated if the facility is being properly operated and maintained and wastewater treatment and effluent standards are continually being met.

4. Measures shall be undertaken to assure the provision of financial resources by wastewater treatment plant owners to adequately cover the costs of rehabilitating, operating, and maintaining each wastewater treatment and disposal facility, and of connection to regional facilities, if applicable, at the appropriate time.

B. Interim or package-type wastewater treatment facilities shall connect to the municipal sanitary sewer system when the access to the system becomes available. The following criteria and procedures shall be adhered to in the implementation of this standard:

1. Package-type or interim wastewater treatment plants currently meeting treatment and effluent quality standards may continue to operate if:

a. The facility is properly operated and maintained and wastewater treatment and effluent standards are satisfactorily met; and

b. The facility is phased out at the option of the City, without cost to the City, and connected to the City system when sufficient capacity is available.

2. When a private facility is phased out and connected to the City sewer system, all costs of connection to the central system and discontinuing the interim use is the obligation of the owner of the private facility.

C. Where soil conditions permit, an interim package treatment plant may be permitted if:

1. Sewer lines and lift stations are constructed to City standards;

2. Impact fees for future connections to the City system are paid or a surety is provided; and

3. The developer agrees to discontinue operation of the package plant and connect to the City system, when available.

D. Existing development with central wastewater treatment shall connect to the City system as soon as possible after the City system is available or if the existing system is found to have deficiencies that are likely to create a serious health or pollution problem. Property owners shall pay the impact fee and connection fee then in effect.

9.07.07. *Reclaimed water systems.* Reclaimed water system construction and materials shall comply with City standards.

A. *Conditions precedent to reclaimed water services.* Reclaimed water service shall be activated only after all permit conditions of the Florida Department of Environmental Protection are completed and the reclaimed water distribution system has been approved and accepted by the City.

B. *Compliance with state regulations.* In the operation and use of the City's reclaimed water system, the City and all users shall at all times comply with all applicable regulations of the Florida Department of Environmental Protection relative to the reuse of reclaimed water.

C. *Design and performance standards.* All reclaimed water systems shall meet applicable requirements of the Florida Department of Environmental Protection and the City.

D. *Connection permit required.* It is prohibited and unlawful to connect to any public reclaimed water main or appurtenance without prior approval from the Land Use Administrator and the acquisition of all required state and local permits.

E. *Reclaimed water lines.* All new developments shall provide a reclaimed water system for irrigation purposes, unless otherwise approved by the Land Use Administrator. ~~If reclaimed water is not available at the time of construction, a connection shall be provided with backflow prevention to the potable water system until the reclaimed water is available.~~

( Ord. No. 2018-24 , § 2, 11-6-18)

Sec. 9.08. - Outdoor lighting requirements.

9.08.01. *Purpose.* This section provides specific development requirements to regulate outdoor lighting in order to provide for sufficient lighting levels to meet use needs, but to reduce or prevent light pollution and light disturbance. Reducing or preventing light pollution means, to the extent reasonably possible, ensuring the reduction or prevention of glare and light trespass, the conservation of energy and the promotion of safety and security~~, in general conformity with the "dark sky" goals and recommendations.~~.

9.08.02. *Approved materials and methods of installation.* The provisions of this section are not intended to prevent the use of any material or method of installation not specifically proscribed by this section, if any such alternate has been specifically approved. The Land Use Administrator may approve any such alternate if the proposed design, material, or method:

A. Provides approximate equivalence to the specific requirements of this section; or

B. Is otherwise satisfactory and complies with the intent of this section.

9.08.03. *Shielding and filtering.* All outdoor light fixtures shall be fully shielded as required in this section. All outdoor light fixtures required to be filtered by this section shall have glass, acrylic, or translucent enclosures (quartz glass does not meet this requirement).

9.08.04. *Requirements for shielding and filtering.* The requirements for shielding and filtering light emissions from outdoor light fixtures are set forth in the following table:

*Table 9-1: Requirements for Shielding and Filtering*

| Fixture Lamp Type | Shielded | Filtered |
|---|---|---|
| Low Pressure Sodium | None | None |
| High Pressure Sodium | Fully | None |
| Metal Halide | Fully | Yes |
| Fluorescent | Fully | Yes |
| Quartz | Fully | None |
| Incandescent Greater than 160 W | Fully | None |
| Incandescent 160 W or less | None | None |
| Mercury Vapor | Not permitted | Not permitted |
| Glass Tubes filled with Neon, Argon, Krypton | None | None |

9.08.05. *Parking lot lighting.* General exterior lighting shall provide adequate illumination to safely guide vehicles and pedestrians into, out of, and within a site, and deter vandalism. Exterior lighting sources shall render colors faithfully so that pedestrians and vehicle operators are able to distinguish colors and differentiate objects within their field of vision and be arranged so as to eliminate on-site glare and spillover onto adjacent properties, public streets, and highways.

A. *Plan required.* An illumination plan prepared by a Florida licensed professional engineer and/or certified professional with expertise in the field of illumination shall be submitted for each parking facility. Each parking facility shall meet the pedestrian security requirements as set forth in Section ~~1~~4 of IESNA - RP-20-~~98~~ 14 Lighting for Parking Facilities, ~~1998~~ 2014 or current edition. Such plan shall comply with all requirements as outlined in this section.

B. *Full cutoff light fixtures.* Luminaires shall be designed to ensure that no candela occurs at or above an angle of 90 degrees above the horizontal plane (nadir). This applies to all lateral angles around the luminaire. Such candela information shall be determined by a photometric test report (plan) from the lighting contractor. Any structural part of the luminary for all types of lighting providing cutoff angle shielding shall be permanently attached, except that accent uplighting for trees and building walls may be allowed to exceed the 90-degree angle plane, subject to review and approval by the Land Use Administrator if determined to provide an equivalent public benefit.

C. *Shielding requirement.* Lighting shall be designed to prevent direct glare, light spillage, and hazardous interference with automotive, aircraft, and pedestrian traffic on adjacent streets and on all adjacent properties.

D. *Design requirement.*

1. The maximum height of light poles in areas other than pedestrian areas shall be 35 feet, including the base. Light poles exceeding 35 feet in height shall not be allowed unless approved through a special exception use order or development agreement. For pedestrian areas, the maximum height of a light pole shall be 16 feet, including the base.

2. Fixtures shall be designed as integral design elements that complement the design of a development through style or by blending into the landscape material. Bright colors such as primary and secondary colors including, but not limited to, white, are prohibited for light pole uses.

3. Light poles shall not be placed in required parking lot landscape islands of less than 500 square feet or anywhere else on the site where they will conflict with existing or proposed shade trees. Light pole locations shall be depicted on all sets of site plans to ensure no conflicts between utilities and landscaping.

4. Full lighting details shall be supplied for light fixtures (to include lumens and wattage), poles, and photometric plans.

9.08.06. *Roadways.* All new development abutting or containing public or private roadways shall provide street lighting within those roadways meeting the following requirements:

A. *Installation.* All infrastructure associated with lighting shall be installed; including, but not limited to, pole boxes, conduits, etc.; concurrent with the development.

B. *Plan required.* An illumination plan prepared by an expert in the field of illumination shall be submitted for each roadway segment that is adjacent to the proposed development and required by the Land Use Administrator to be illuminated. The illumination requirements for roadway facilities shall meet the more stringent standards set forth in American National Standards Institute, Illuminating Engineering Society of North America (ANSI/IESNA) RP-8-00 (R2005) and Florida Department of Transportation Standards (latest editions). Such plan shall comply with all requirements as outlined in this section.

C. *Full cutoff light fixtures.* Luminaires shall be designed to ensure that no candela occurs at or above an angle of 90 degrees above the horizontal plane (nadir). This applies to all lateral angles

around the luminaire. Such candela information shall be determined by a photometric test report (plan) from the lighting contractor. Any structural part of the luminary for all types of lighting providing cutoff angle shielding shall be permanently attached, except that accent uplighting for trees and building walls may be allowed to exceed the 90-degree angle plane, subject to review and approval by the Land Use Administrator if the lighting is determined to provide an equivalent public benefit. All light fixtures shall be standard fixture types as determined by the City.

D. *Shielding requirements.* Lighting shall be designed to prevent direct glare, light spillage, and hazardous interference with automotive, aircraft, and pedestrian traffic on adjacent streets and on all adjacent properties.

E. *Design requirements.*

1. Light pole locations shall be depicted on all sets of the plans to ensure that no conflicts exist between proposed utilities and proposed landscaping.

2. Full lighting details shall be supplied for light fixtures (to include lumens and wattage), poles, and photometric plans.

9.08.07. *Prohibitions.*

A. *Outdoor building, landscaping, and signs.* The unshielded outdoor illumination of any building or landscaping is prohibited except for incandescent fixtures with lamps of 100 watts or less.

B. *Mercury vapor.* The installation of mercury vapor fixtures is prohibited.

9.08.08. *Exemptions.*

A. *Nonconforming fixtures.* Outdoor light fixtures installed prior to August 19, 2008 are exempt from the provisions of this section; provided, however, that no change in use, replacement, structural alteration, or restoration of outdoor light fixtures may be made unless it thereafter conforms to the provisions of this section.

B. *Ornamental lighting.* Ornamental street lighting is exempt from the provisions of this section and is a permitted lighting installation.

C. *Construction and emergency lighting.* Lighting necessary for construction or emergencies is exempt from the provisions of this section if temporary and discontinued immediately upon the completion of the construction work or abatement of the emergency necessitating said lighting.

D. *Searchlights.* The use of searchlights is prohibited unless a permit specifying conditions is issued by the Land Use Administrator.

E. *Request for exemption.* Any person may submit a written request for an exemption from the requirements of this section. The request for exemption shall be submitted in writing to the Land Use Administrator and shall contain the following information:

1. Specific exemption requested.

2. Type and use of exterior light involved.

3. Duration of time for requested exemption.

4. Type of lamp and calculated lumens.

5. Total wattage of lamp or lamps.

6. Sketch to scale showing location of proposed exterior light.

7. Previous exemptions granted, if any.

8. Physical size of exterior light and type of shielding provided.

9. Any additional information required to make a reasonable evaluation of the request for exemption.

( Ord. No. 2018-24 , § 2, 11-6-18)

Sec. 10.01. - Wetland Resources.

10.01.01. *Purpose and intent.* The purpose of this section is to ensure the protection of high-quality wetland systems in a manner consistent with the resource protection guidelines adopted in the City's Comprehensive Plan and existing state regulatory standards. In addition, it is the City's intent to maintain the sustainability of high-quality wetland corridors~~systems~~.

10.01.02. *Exempt activities.* The following activities or uses within wetlands or required upland buffers adjacent to wetlands are exempt from the provisions of this section:

A. Construction of single-family residential units within existing, recorded subdivisions where adjoining street and drainage improvements have been constructed.

B. Construction of hiking trails, walking paths, observation decks, and other similar facilities related to passive recreational activities.

C. Manual clearing with hand tools of vegetation (no stump removal or soil disturbance) from an area of less than ten percent of a wetland or required upland buffers adjacent to a wetland located on a single parcel. Utilizing this exemption does not relieve the applicant from meeting all applicable regulations listed in Chapter 11.

D. Bona fide agricultural uses that follow best management practices established by the Florida Department of Agriculture and Consumer Services.

E. Bona fide fire line control activities that follow best management practices established by the Florida Department of Agriculture and Consumer Services.

F. Silviculture activities, which follow the best management practices, outlined in the publication entitled, "Silviculture Best Management Practices Manual", Florida Department of Agriculture and Consumer Services, Division of Forestry and as outlined in Chapter 62-330.0511 FAC, as amended.

G. Bona fide, approved, mosquito control activities conducted by a government-approved agency provided it is in strict conformity with the requirements as set forth in F.S. chs. 482 and 487 , and Rules 5E-2 and 5E-9, Florida Administrative Code.

H. Utility facilities including crossings, easements, or rights-of-way that are related to generation, distribution, collection, transmission, or conveyance of the utility service to its customers.

I. Custodial maintenance activities of stormwater management systems.

J. Authorized activities with approved Florida Department of Environmental Protection, St. Johns River Water Management District, or US Army Corps of Engineers permit(s) for wetland restoration, enhancement, monitoring, or mitigation activities.

K. The installation of driveways to single-family residential units within existing recorded subdivisions where wetland crossings provide the only physical or legal access point, and provided that the wetland crossing maintains the existing wetland hydrologic connections and that best management practices are in place during construction activities to minimize wetland impacts.

L. Activities qualifying for and obtaining a Notice of General Permit through the joint environmental resource permitting application are considered de minimis alterations and not subject to the permitting or buffering requirements of this LDC.

M. Wetland impacts associated with access to a permissible use or a linear project if an alternative analysis for avoidance and minimization has been approved. This exemption also applies to Florida Department of Transportation public transportation projects.

N. Activities that qualify for and obtain a State Programmatic General Permit (federal authorization delegated to the state) are considered de minimis alterations and not subject to the permitting or buffering requirements of this LDC.

O. Activities determined to be de minimis under the Florida Statutes.

10.01.03. *Wetland identification.*

A. *Methodology.* Wetlands shall be delineated~~identified~~ pursuant to the methodology contained in the Florida Administrative Code Chapter 62-340 or the Pre-Henderson Wetland Delineation Methodology (F.S. § 373.421 (7)). Wetlands may consist of, but are not limited to, forested swamps, sloughs, freshwater and tidal marshes, and wet prairies.

B. *Exempt from regulation.* This section shall not be construed to regulate roadside ditches, conveyance swales, utility related drainage features, or stormwater management systems.

C. *Qualifications for wetland delineation.* All state jurisdictional wetlands shall be field delineated by a ~~Florida~~ Qqualified Eenvironmental Pprofessional and surveyed by a Florida registered land surveyor for illustration on all plans submitted to the City for subdivision, site plan review, or rezoning applications.

10.01.04. *Measures to avoid or minimize wetland impacts.* The applicant must consider practicable design modifications that will reduce or eliminate adverse impacts to wetlands and other surface waters. The term "modification" shall not be construed as including the alternative of failing to implement the stormwater management system in some form, nor shall it be construed as requiring a project that is significantly different in type or function. A proposed modification that is not technically capable of being constructed, or is not economically viable, or which adversely affects public safety through endangerment of lives or property is not considered "practicable." To receive City approval, a stormwater management system cannot cause a net adverse impact on wetland functions and other surface water functions, unless it is offset by mitigation in accordance with the requirements established by state law.

10.01.05. *Wetland impact report required.*

A. Except as otherwise provided herein, the applicant shall demonstrate consistency with the category requirements in Table 10-1 as follows:

*Table 10-1: Wetland Impact Analysis Report Requirements*

| Requirement in Application Package | Optimal Wetland | Moderate Wetland (1) | Minimal Wetland (1) |
|---|---|---|---|
| Wetland Impact Analysis | YES | YES | YES |
| Alternatives analysis for avoidance and minimization | YES | YES | NO |
| Assurance of 'no net loss of wetland functions' for the wetland system(s) located on the project site | YES | NO | NO |
| Compensatory mitigation within the City's geographic boundary is preferred. However, mitigation shall occur within the same hydrologic basin per St. Johns River Water Management District, or as consistent with the Florida Administrative Code (2) | YES | YES | YES |
| A copy of all requisite federal and/or state wetland permits | YES | YES | YES |

(1) Wetland Impacts regulated by St. Johns River Water Management District, ~~or~~ the Florida Department of Environmental Protection, or Army Corp of Engineers

(2) In accordance with F.S. § 373.4135 , as amended, the City shall not deny the use of a mitigation bank or off-site regional mitigation due to its location outside of City jurisdiction.

B. Category wetlands are described as follows:

1. *Optimal wetlands*—Named wetland systems associated with surface water bodies and/or a wetland quality assessment methodology score between 0.71 and 1.0.

2. *Moderate wetlands*—Wetland quality assessment methodology score between 0.41 and 0.70

3. *Minimal wetlands*—Wetland quality assessment methodology score between 0.0 and 0.40

10.01.06. *Submittal requirements for wetland impact analysis report.* The City shall require a wetland impact analysis report for projects that are proposed to impact state jurisdictional wetlands. The wetland impact analysis report shall be submitted during the subdivision and site plan process for evaluation. The wetland impact analysis report shall be completed by a Florida qualified environmental professional and shall include, but not be limited to:

A. A description of all waterbodies, watercourses, and wetlands on-site and a general description of wetlands immediately adjacent to the site to allow an assessment of wetland impacts.

B. A map of the entire contiguous natural systems including the on-site wetland systems, based on the Florida Land Use Cover Classification System.

C. The existing environmental, soil, and hydrologic conditions of the site.

D. The proposed wetland impact site to be evaluated pursuant to the City's wetland quality assessment methodology. If the results of the wetland quality assessment methodology are deemed unsatisfactory by City staff, the City may require, at the applicant's expense, an additional wetland quality assessment methodology from another qualified environmental professional.

E. A map or site plan depicting on-site wetlands, wetlands proposed for impacts, roads, easements, stormwater facilities, buffers, building location, and other on-site facilities or structures.

F. An alternative site plan analysis consistent with City standards for avoidance and minimization of wetland impacts, where applicable, which illustrates that wetland impacts have been avoided and/or minimized to the greatest extent practicable through project design modifications.

G. A demonstration that the level of function provided to fish and wildlife and listed species by the subject wetland(s), including water quality of the receiving waters, will not be adversely affected.

H. Report must be completed within 5 years of submittal or must have a valid formal wetland determination through appropriate agencies. An updated delineation report can be requested if the site has been altered since the delineation in such ways, such as but not limited to clearing and altered water flow.

10.01.07. *Permitted activities and requirements.* Once the requirements of this section have been met, wetland impacts for moderate and minimal quality wetlands and associated mitigation activities shall be governed by the St. Johns River Water Management District, the Army Corp of Engineers, or the Florida Department of Environmental Protection, as applicable. A St. Johns River Water Management District, the Army Corp of Engineers, and/or Florida Department of Environmental Protection permit shall be prima facie evidence of compliance with this section. No net loss of wetland function shall be permitted for each optimal wetland system located in the City.

10.01.08. *Buffers.*

A. *Natural upland buffers.* A natural upland buffer, with an average width of 50 feet, but no less than 25 feet, shall be provided adjacent to and surrounding optimal wetlands; and a buffer with an average width of 25 feet, but no less than 15 feet, shall be provided adjacent to moderate and minimal wetlands.

1. Upland buffers adjacent to wetlands shall consist of natural upland habitats that can provide for the various life functions of wetland dependent wildlife.

2. Upland buffers adjacent to wetlands shall not be altered except as exempted by Subsection 10.01.02. Wetland buffers shall be protected from erosion and sedimentation during construction activities by installing and maintaining silt fence or turbidity barrier 1 foot landward from upland buffer or permitted wetlands impacts. A double row of silt fence, spaced at least 3 feet apart, shall be installed on any upland buffer or wetland that falls under categories below:

a. Is protected by conservation FLUM or Preservation Zoning.

b. Is within a conservation easement

c. Is a high-quality wetland as determined by 10.01.05.B

On a case by case basis, a reinforced silt fence may be used in lieu of double row silt fence.

B. *Activities permitted within a buffer.* Activities or construction, which does not have an adverse effect on the natural function of the wetland buffer, may be permitted within the buffer. The activities or construction include, but are not limited to, pruning, planting of suitable native vegetation, removal of exotic and nuisance plant species, construction of minor drainage structures such as ~~swales,~~ outfall pipes and outfall structures , ~~or berms~~, construction of elevated boardwalks, docks, piers, passive recreation such as~~, or~~ at grade pervious hiking trails.

10.01.09. Unpermitted Impacts to wetlands or upland buffers during construction. In the absence of an appropriate wetland permit(s), development related activities shall not cause the diminishing of quality or destruction of Wetlands in contravention of applicable federal and state laws, rules, or regulations. Should wetlands exist on the subject property, all development activities that might negatively affect that wetlands shall cease. The applicant shall notify the City, FDEP, SJRWMD, and ACOE, to the extent required by law, if wetlands are determined to be on site. Property shall be developed in full compliance with all applicable laws, rules, and regulations. Upland Buffers and wetlands shall be maintained in their natural vegetated condition. Native vegetation removed or destroyed within the Upland Buffer or wetlands in violation of this Code shall be restored. These areas shall be replanted with comparable native vegetative species as were removed or destroyed.

Sec. 10.02 - Floodplain Management.

10.02.01 *Administration.*

A. *General.* These regulations shall be known as the Floodplain Management Ordinance of the City of Palm Coast, hereinafter referred to as "this article."

B. *Scope.* The provisions of this article shall apply to all development that is wholly within or partially within any flood hazard area, including but not limited to the subdivision of land; filling, grading, and other site improvements and utility installations; construction, alteration, remodeling, enlargement, improvement, replacement, repair, relocation or demolition of buildings, structures, and facilities that are exempt from the Florida Building Code; placement, installation, or

replacement of manufactured homes and manufactured buildings; installation or replacement of tanks; placement of recreational vehicles; installation of swimming pools; and any other development.

10.02.02 *Reserved.*

10.02.03 *Intent.*

A. *[Purposes.]* The purposes of this article and the flood load and flood resistant construction requirements of the Florida Building Code are to establish minimum requirements to safeguard the public health, safety, and general welfare and to minimize public and private losses due to flooding through regulation of development in flood hazard areas to:

1. Minimize unnecessary disruption of commerce, access and public service during times of flooding;
2. Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
3. Manage filling, grading, dredging, mining, paving, excavation, drilling operations, storage of equipment or materials, and other development which may increase flood damage or erosion potential;
4. Manage the alteration of flood hazard areas, watercourses, and shorelines to minimize the impact of development on the natural and beneficial functions of the floodplain;
5. Minimize damage to public and private facilities and utilities;
6. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
7. Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events; and
8. Meet the requirements of the National Flood Insurance Program for community participation as set forth in the Title 44 Code of Federal Regulations, Section 59.22.

B. *Coordination with the Florida Building Code.* This article is intended to be administered and enforced in conjunction with the Florida Building Code. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code.

C. *Warning.* The degree of flood protection required by this article and the Florida Building Code, as amended by this community, is considered the minimum reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This article does not imply that land outside of mapped special flood hazard areas, or that uses permitted within such flood hazard areas, will be free from flooding or flood damage. The flood hazard areas and base flood elevations contained in the Flood Insurance Study and shown on Flood Insurance Rate Maps and the requirements of Title 44 Code of Federal Regulations, Sections 59 and 60 may be revised by the Federal Emergency Management Agency, requiring this community to revise these regulations to remain eligible for participation in the National Flood Insurance Program. No guarantee of vested use, existing use, or future use is implied or expressed by compliance with this article.

D. *Disclaimer of liability.* This article shall not create liability on the part of City Council of the City of Palm Coast or by any officer or employee thereof for any flood damage that results from reliance on this article or any administrative decision lawfully made thereunder.

10.02.04 *Applicability.*

A. *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

B. *Areas to which this article applies.* This article shall apply to all flood hazard areas within the City of Palm Coast as established in Section 10.02.04.C of this article.

C. *Basis for establishing flood hazard areas.* The Flood Insurance Study for Flagler County, Florida and Incorporated Areas dated June 6, 2018 and any subsequent revisions, and the accompanying Flood Insurance Rate Maps (FIRM), are adopted by reference as a part of this article and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file at the City of Palm Coast Community Development Department, 160 Lake Avenue, Palm Coast, Florida 32164.

D. *Submission of additional data to establish flood hazard areas.* To establish flood hazard areas and base flood elevations, pursuant to Section 10.02.07 of this article the Floodplain Administrator may require submission of additional data. Where field surveyed topography prepared by a Florida licensed professional surveyor or digital topography accepted by the Floodplain Administrator indicates that ground elevations:

1. Are below the closest applicable base flood elevation, even in areas not delineated as a special flood hazard area on a FIRM, the area shall be considered as a flood hazard area and subject to the requirements of this article and, as applicable, the requirements of the Florida Building Code.

2. Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the applicant obtains a Letter of Map Change that removes the area from the special flood hazard area.

E. *Other laws.* The provisions of this article shall not be deemed to nullify any provisions of local, state or federal law.

F. *Abrogation and greater restrictions.* This article supersedes any article in effect for management and development in flood hazard areas. However, it is not intended to repeal or abrogate any other provisions of existing ordinances including but not limited to land development regulations, zoning ordinances, stormwater management regulations, or the Florida Building Code. In the event of a conflict between these regulations and any other regulation, the more restrictive shall govern. This article shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this article.

G. *Interpretation.* In the interpretation and application of this article, all provisions shall be:

1. Considered as minimum requirements;

2. Liberally construed in favor of the governing body; and

3. Deemed neither to limit nor repeal any other powers granted under state statutes.

10.02.05 *Duties and powers of the Floodplain Administrator.*

A. *Designation.* The Land Use Administrator is designated the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.

B. *General.* The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this article. The Floodplain Administrator shall have the authority to render interpretations of this article consistent with the intent and purpose of this article and may establish policies, and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall not have the effect of waiving requirements specifically provided in this article without the granting of a variance pursuant to Section 10.02.09 of this article.

C. *Applications and permits.* The Floodplain Administrator, in coordination with other pertinent offices of the community, shall:

1. Review applications and plans to determine whether proposed development will be located in flood hazard areas;
2. Review applications for modifications of any existing development in flood hazard areas for compliance with the requirements of this article;
3. Interpret flood hazard area boundaries where such interpretation is necessary to determine the exact location of boundaries; a person contesting the determination shall have the opportunity to appeal the interpretation;
4. Provide available flood elevation and flood hazard information;
5. Determine whether additional flood hazard data shall be obtained from other sources which shall be developed by an applicant;
6. Review applications to determine whether proposed development will be reasonably safe from flooding;
7. Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code, when compliance with this article is demonstrated, or disapprove the same in the event of noncompliance; and
8. Coordinate with and provide comments to the Building Official to assure that applications, plan reviews, and inspections for buildings and structures in flood hazard areas comply with the applicable provisions of this article.

D. Substantial improvements and substantial damage determinations. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before the repairs are made;
2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
3. Determine and document whether the proposed work constitutes substantial improvements or repair of substantial damage; the determination requires evaluation of previous permits issued for improvements and repairs as specified in the definition of "substantial improvement"; for proposed work to repair damage caused by flooding, the determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage";
4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the Florida Building Code and this article is required.

E. *Modifications of the strict application of the requirements of the Florida Building Code.* The Floodplain Administrator shall review requests submitted to the Building Official that seek approval to modify the strict application of the flood load and flood resistant construction requirements of the Florida Building Code to determine whether such requests require the granting of a variance pursuant to Section 10.02.09 of this article.

F. *Notices and orders.* The Floodplain Administrator shall coordinate with appropriate local agencies for the issuance of all necessary notices or orders to ensure compliance with this article.

G. *Inspections.* The Floodplain Administrator shall make the required inspections as specified in Section 10.02.08 of this article for development that is not subject to the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.

H. *Other duties of the Floodplain Administrator.* The Floodplain Administrator shall have other duties, including but not limited to:

1. In coordination with the Building Official, review all permits for construction within the Special Flood Hazard Areas to ensure that the proposed project meets the flood resistant construction requirements of the Florida Building Code, including elevation requirements;

2. Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 10.02.05.D of this article;

3. Require that applicants proposing alteration of a watercourse notify adjacent communities and the Florida Division of Emergency Management, State Floodplain Management Office, and submit copies of such notifications to the Federal Emergency Management Agency (FEMA);

4. Require applicants, who submit hydrologic and hydraulic engineering analyses to support permit applications, to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available;

5. Review required design certifications and documentation of elevations specified by this article and the Florida Building Code to determine that such certifications and documentations are complete. Elevation certificates shall be provided at three stages, 1) construction drawings, 2) building under construction, and 3) finished construction;

6. Notify the Federal Emergency Management Agency (FEMA) when the corporate boundaries of the City of Palm Coast are modified; and

7. Advise applicants for new buildings and structures, including substantial improvements, that are located in any unit of the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (Pub. L. 97-348) and the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591) that federal flood insurance is not available on such construction; areas subject to this limitation are identified on Flood Insurance Rate Maps as "Coastal Barrier Resource System Areas" and "Otherwise Protected Areas."

I. *Floodplain management records.* Regardless of any limitation on the period required for retention of public records, the Floodplain Administrator shall maintain and permanently keep and make available for public inspection all records that are necessary for the administration of this article and the flood resistant construction requirements of the Florida Building Code, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits and denial of permits; determinations of whether proposed work constitutes substantial improvement or repair of substantial damage; required design certifications and documentation of elevations specified by the Florida Building Code and this article; notifications to adjacent communities, FEMA, and the state related to alterations of watercourses; assurances that the flood carrying capacity of altered watercourses will be maintained; documentation related to appeals and variances, including justification for issuance or denial; and records of enforcement actions taken pursuant to this article and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at City of Palm Coast.

10.02.06 *Permits.*

A. *Permits required.* Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this article, including buildings, structures and facilities exempt from the Florida Building Code, which is wholly within or partially within any flood hazard area shall first make application to the Floodplain Administrator, and the Building Official if applicable, and shall obtain the required permit(s) and approval(s). No such permit or approval shall be issued until compliance with the requirements of this article and all other applicable codes and regulations has been satisfied.

B. *Floodplain development permits or approvals.* Floodplain development permits or approvals shall be issued pursuant to this article for any development activities not subject to the requirements of the Florida Building Code, including buildings, structures and facilities exempt from the Florida Building Code. Depending on the nature and extent of proposed development that includes a building or structure, the Floodplain Administrator may determine that a floodplain development permit or approval is required in addition to a building permit.

C. *Buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to the requirements of federal regulation for participation in the National Flood Insurance Program (44 C.F.R. Sections 59 and 60), floodplain development permits or approvals shall be required for the following buildings, structures and facilities that are exempt from the Florida Building Code and any further exemptions provided by law, which are subject to the requirements of this article:

1. Railroads and ancillary facilities associated with the railroad.
2. Nonresidential farm buildings on farms, as provided in F.S. § 604.50 .
3. Temporary buildings or sheds used exclusively for construction purposes.
4. Mobile or modular structures used as temporary offices.
5. Those structures or facilities of electric utilities, as defined in F.S. § 366.02 , which are directly involved in the generation, transmission, or distribution of electricity.
6. Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other non-wood features.
7. Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site, and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.
8. Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.
9. Structures identified in F.S. § 553.73 (10)(k), are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.

D. *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the City of Palm Coast. The information provided shall:

1. Identify and describe the development to be covered by the permit or approval.
2. Describe the land on which the proposed development is to be conducted by legal description, street address or similar description that will readily identify and definitively locate the site.
3. Indicate the use and occupancy for which the proposed development is intended.

4. Be accompanied by a site plan or construction documents as specified in Section 10.04.07.
5. State the valuation of the proposed work.
6. Be signed by the applicant or the applicant's authorized agent.
7. Give such other data and information as required by the Floodplain Administrator.

E. *Validity of permit or approval.* The issuance of a floodplain development permit or approval pursuant to this article shall not be construed to be a permit for, or approval of, any violation of this article, the Florida Building Codes, or any other ordinance of this community. The issuance shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.

F. *Expiration.* A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing and justifiable cause shall be demonstrated.

G. *Suspension or revocation.* The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this article or any other ordinance, regulation or requirement of the City.

H. *Other permits.* Floodplain development permits and building permits shall include a condition or disclaimer that all other applicable state or federal permits be obtained by the applicant before commencement of the permitted development. Such permits may include but not limited to the following:

1. The St. Johns Water Management District; F.S. § 373.036 .
2. Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065 , and Chapter 64E-6, F.A.C.
3. Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; F.S. § 161.055 .
4. Florida Department of Environmental Protection for activities that affect wetlands and alter surface water flows, in conjunction with the U.S. Army Corps of Engineers; Section 404 of the Clean Water Act.
5. Federal permits and approvals.

10.02.07 *Site plans and construction documents.*

A. *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this article shall be drawn to scale and shall include, as applicable to the proposed development:

1. Delineation of flood hazard areas, floodway boundaries, 25-foot floodway setback, flood zone(s), base flood elevation(s), and ground elevations~~, if necessary for review of the proposed development.~~
2. Where base flood elevations or floodway data are not included on the FIRM or in the Flood Insurance Study, they shall be established in accordance with Section 10.02.07.B.2 or Section 10.02.07.B.3 of this article.
3. Where the parcel on which the proposed development will take place does not have base flood elevations included on the FIRM or in the Flood Insurance Study, such elevations shall be established in accordance with Section 10.02.07.B. of this article.

4. Location of the proposed activity and proposed structures, and locations of existing buildings and structures; in coastal high hazard areas, new buildings shall be located landward of the reach of mean high tide.
5. Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
6. Where the placement of fill is proposed, the amount, type, and source of fill material; compaction specifications; a description of the intended purpose of the fill areas; and evidence that the proposed fill areas are the minimum necessary to achieve the intended purpose.
7. Existing and proposed alignment of any proposed alteration of a watercourse.

B. *Information in flood hazard areas without base flood elevations (approximate Zone A).* Where flood hazard areas are delineated on the FIRM and base flood elevation data have not been provided, the Floodplain Administrator shall:

1. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
2. Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source, or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
3. Where base flood elevation data and floodway data are not available from another source, where the available data are deemed by the Floodplain Administrator to not reasonably reflect flooding conditions, or where the available data are known to be scientifically or technically incorrect or otherwise inadequate, the base flood elevation shall be determined using a site-specific floodplain study by a professional engineer using detailed methods.
4. Where the base flood elevation data are to be used to support a Letter of Map Change from FEMA, advise the applicant that the analyses shall be prepared by a Florida licensed engineer in a format required by FEMA, and that it shall be the responsibility of the applicant to satisfy the submittal requirements and pay the processing fees.

C. *Additional analyses and certifications.* As applicable to the location and nature of the proposed development activity, and in addition to the requirements of this section, the applicant shall have the following analyses signed and sealed by a Florida licensed engineer for submission with the site plan and construction documents:

1. For development activities proposed to be located in a regulatory floodway or within the 25-foot floodway setback, a floodway encroachment analysis that demonstrates that the encroachment of the proposed development will not cause any increase in base flood elevations; where the applicant proposes to undertake development activities that do increase base flood elevations, the applicant shall submit such analyses to FEMA as specified in Section 10.02.07.D of this article and shall submit the Conditional Letter of Map Revision, if issued by FEMA, with the site plan and construction documents.
2. For development activities proposed to be located in a riverine flood hazard area for which base flood elevations are included in the Flood Insurance Study on the FIRM and floodways have not been designated, hydrologic and hydraulic analyses that demonstrate that the cumulative effect of the proposed development, when combined with all other existing and anticipated flood hazard area encroachments, will not increase the base flood elevation at any point within the community. This requirement does not apply in isolated flood hazard areas not connected to a riverine flood hazard area or in flood hazard areas identified as Zone "O" or Zone "AH".
3. For alteration of a watercourse, an engineering analysis prepared in accordance with standard engineering practices which demonstrates that the flood-carrying capacity of the

altered or relocated portion of the watercourse will not be decreased, and certification that the altered watercourse shall be maintained in a manner which preserves the channel's flood-carrying capacity; the applicant shall submit the analysis to FEMA as specified in Section 10.02.07.D of this article.

D. Submission of additional data. When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant shall seek a Letter of Map Change from FEMA to change the base flood elevations, change floodway boundaries, or change boundaries of flood hazard areas shown on FIRMs, and to submit such data to FEMA for such purposes. The analyses shall be prepared by a Florida licensed engineer in a format required by FEMA. Submittal requirements and processing fees shall be the responsibility of the applicant.

10.02.08 *Inspections.*

A. *General.* Development for which a floodplain development permit or approval is required shall be subject to inspection.

B. *Development other than buildings and structures.* The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

C. *Buildings, structures and facilities exempt from the Florida Building Code.* The Floodplain Administrator shall inspect buildings, structures and facilities exempt from the Florida Building Code to determine compliance with the requirements of this article and the conditions of issued floodplain development permits or approvals.

D. *Buildings, structures and facilities exempt from the Florida Building Code, lowest floor inspection.* Upon placement of the lowest floor, including basement, and prior to further vertical construction, the owner of a building, structure or facility exempt from the Florida Building Code, or the owner's authorized agent, shall submit to the Floodplain Administrator: the certification of the lowest floor prepared and sealed by a state-licensed surveyor.

E. *Buildings, structures and facilities exempt from the Florida Building Code, final inspection.* As part of the final inspection, the owner or owner's authorized agent shall submit to the Floodplain Administrator a final certification of elevation of the lowest floor or final documentation of the height of the lowest floor above the highest adjacent grade; such certifications and documentations shall be prepared as specified in Section 10.02.08.D of this article.

F. *Manufactured homes.* The Building Official shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this article and the conditions of the issued permit. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Building Official.

10.02.09 *Variances and appeals.*

A. *General.* The Land Use Administrator and the City of Palm Coast Planning and Land Development Regulation Board shall hear and decide on requests for appeals and the Planning and Land Development Regulation Board shall hear requests for variances from the strict application of this article. Pursuant to F.S. § 553.73 (5), the Planning and Land Development Regulation Board shall hear and decide on requests for appeals and requests for variances from the strict application of the flood resistant construction requirements of the Florida Building Code. This section does not apply to Section 3109 of the Florida Building Code, Building.

B. *Appeals.* Same process as set out in Section 2.16, of the Land Development Code.

C. *Limitations on authority to grant variances.* The Planning and Land Development Regulation Board shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in Section 10.02.09.H of this article, the conditions of issuance set forth in Section 10.02.09.I of this article, and the comments and recommendations of the Land

Use Administrator, Floodplain Administrator and the Building Official. The Planning and Land Development Regulation Board has the right to attach such conditions as it deems necessary to further the purposes and objectives of this article.

D. *Restrictions in floodways.* A variance shall not be issued for any proposed development in a floodway if any increase in base flood elevations would result, as evidenced by the applicable analyses and certifications required in Section 10.02.07.C of this article.

E. *Historic buildings.* A variance is authorized to be issued for the repair, improvement, or rehabilitation of a historic building that is determined eligible for the exception to the flood resistant construction requirements of the Florida Building Code, Existing Building Chapter 12 Historic Buildings, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic building and the variance is the minimum necessary to preserve the historic character and design of the building. If the work precludes the building's continued designation as a historic building, a variance shall not be granted and the building and any repair, improvement, and rehabilitation shall be subject to the requirements of the Florida Building Code.

F. *Functionally dependent uses.* A variance is authorized to be issued for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this article, provided the variance meets the requirements of Section 10.02.09.D, is the minimum necessary considering the flood hazard, and all due consideration has been given to use of methods and materials that minimize flood damage during occurrence of the base flood.

G. *Alteration of sand dunes or mangrove stands in coastal high hazard areas.* A variance shall not be issued for any proposed alteration of sand dunes or mangrove stands in coastal high hazard areas (Zone V) unless the applicant submits, and the City approves, an engineering analysis that demonstrates the proposed alteration will not increase the potential for flood damage or the potential for erosion. Any such variance shall not be issued unless the proposed alteration is approved by the Florida Department of Environmental Protection. This limitation shall not apply to mangrove stands within City canals.

H. *Considerations for issuance of variances.* In reviewing requests for variances, the Planning and Land Development Regulation Board shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, Land Development Code and this article, and the following:

1. The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
2. The danger to life and property due to flooding or erosion damage;
3. The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
4. The importance of the services provided by the proposed development with existing and anticipated development;
5. The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
6. The compatibility of the proposed development with existing and anticipated development;
7. The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
8. The safety of access to the property in times of flooding for ordinary and emergency vehicles;
9. The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets, and bridges.

I. *Conditions for issuance of variances.* Variances shall be issued only upon:

1. Submission by the applicant of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this article or the required elevation standards.

2. Determination by the Planning and Land Development Regulation that:

a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute hardship;

b. Literal interpretation of the provision of this Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Land Development Code and would result in unnecessary and undue hardship on the applicant;

c. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public or conflict with existing local laws and ordinances;

d. The variance is the minimum necessary, considering the flood hazard, to afford relief;

e. The special conditions and circumstances are not self-imposed and do not result from the actions of the applicant; and

f. Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Office of the Clerk of Court in such a manner that it appears in the chain of title of the affected parcel of land;

g. If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the Floodplain Administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as $25.00 for $100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property;

h. The proposed development must not be in conflict with or contrary to the public interest;

i. The proposed development must be consistent with the Comprehensive Plan and the provisions of this Land Development Code;

j. The proposed development must not impose a significant financial liability or hardship for the City;

k. The proposed development must not create an unreasonable hazard, or nuisance, or constitute a threat to the general health, welfare, or safety of the City's inhabitants; and

l. The proposed development must comply with all other applicable local, state, and federal laws, statutes, ordinances, regulators, or codes.

10.02.10 *Violations.*

A. *Violations.* Any development that is not within the scope of the Florida Building Code but that is regulated by this article that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this article, shall be deemed a violation of this article. A

building or structure without the documentation of elevation of the lowest floor, other required design certifications, or other evidence of compliance required by this article or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

B. *Authority.* For development that is not within the scope of the Florida Building Code but that is regulated by this article and that is determined to be a violation, the Floodplain Administrator is authorized to serve notices of violation or stop work orders to owners of the property involved, to the owner's agent, or to the person or persons performing the work.

C. *Unlawful continuance.* Any person who shall continue any work after having been served with a notice of violation of a stop work order, except such work as that a person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law.

10.02.11 *Flood Resistant Development Design and construction of buildings, structures and facilities exempt from the Florida Building Code.*

A. Pursuant to Section 10.02.06.C of this article, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Section 10.02.17 of this article.

10.02.12 *Subdivisions.*

A. *Minimum requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that:

1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

4. 2 ft freeboard above established flood elevation.

5. All new platted lots shall not be located within any special flood hazard area.

B. *Subdivision plats.* Where any portion of proposed subdivisions, including manufactured home parks and subdivisions, lies within a flood hazard area, the following shall be required:

1. Delineation of flood hazard areas, floodway boundaries, 25-foot floodway setback, flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;

2. All subdivisions where the base flood elevation is not included on the FIRM, the base elevations are determined in accordance with Section 10.02.07.B. of this article; and

3. Compliance with the site improvement and utilities requirements of Section 10.02.13 of this article.

4. Any reduction in the water-holding capacity of the flood hazard area caused by development, structures, and site improvements shall be compensated such that no increase in water surface elevations, peak discharges, or velocities occurs either upstream, downstream, or in the vicinity of the site during occurrence of flood events up to and including the base flood. The compensatory storage shall be located within the same defined floodplain's hydrologic sub basin as the placement of the fill. Site improvements are permitted if flood storage provided is equal to or greater than the volume of flood storage displaced by the

development. Technical data providing evidence of the equivalency of the compensatory storage shall be submitted to the City.

5. Applicant shall ensure that technical data reflecting base flood elevation changes or flood hazard area boundary changes are submitted to Federal Emergency Management Agency, with the City's endorsement, for a conditional Flood Insurance Rate Map revision. Prior to approval of final plat, an issued Letter of Map Change determination from FEMA is required.

10.02.13 *Site improvements, utilities and limitations.*

A. *Minimum requirements.* All proposed new development shall be reviewed to determine that:

1. Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;

2. All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage; and

3. Adequate drainage is provided to reduce exposure to flood hazards; in Zones AH and AO, adequate drainage paths shall be provided to guide floodwaters around and away from proposed structures.

B. *Sanitary sewage facilities.* All new and replacement sanitary sewage facilities, private sewage treatment plants (including all pumping stations and collector systems), and on-site waste disposal systems shall be designed in accordance with the standards for onsite sewage treatment and disposal systems in Chapter 64E-6, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the facilities and discharge from the facilities into floodwaters, and impairment of the facilities and systems.

C. *Water supply facilities.* All new and replacement water supply facilities shall be designed in accordance with the water well construction standards in Chapter 62-532.500, F.A.C. and ASCE 24 Chapter 7 to minimize or eliminate infiltration of floodwaters into the systems.

D. *Compensatory storage.* Any reduction in the water-holding capacity of the flood hazard area caused by development, structures, and site improvements shall be compensated such that no increase in water surface elevations, peak discharges, or velocities occurs either upstream, downstream, or in the vicinity of the site during occurrence of flood events up to and including the base flood. The compensatory storage shall be located within the same defined floodplain's hydrologic sub basin as the placement of the fill. Site improvements are permitted if flood storage provided is equal to or greater than the volume of flood storage displaced by the development. Technical data providing evidence of the equivalency of the compensatory storage shall be submitted to the City.

E. *Limitations on sites in regulatory floodways and 25-foot floodway setback.* No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway or 25-foot floodway setback unless the floodway encroachment analysis required in Section 10.02.07.C.1 of this article demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

F. *Limitations on placement of fill.* Subject to the limitations of this article, fill shall be designed to be stable under conditions of flooding including rapid rise and rapid drawdown of floodwaters, prolonged inundation, and protection against flood-related erosion and scour. In addition to these requirements, if intended to support buildings and structures (Zone A only), fill shall comply with the requirements of the Florida Building Code.

G. *Limitations on sites in coastal high hazard areas (Zone V and AE).* In coastal high hazard areas, alteration of sand dunes and mangrove stands shall not be permitted. Construction or restoration of dunes under or around elevated buildings and structures shall comply with Section 10.02.17.I.3 of this article.

10.02.14 *Manufactured homes.*

A. *General.* Manufactured homes shall not be installed in floodways and 25-foot floodway setback except in an existing manufactured home park or subdivision. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § 320.8249 , and shall comply with the requirements of Chapter 15C-1, F. A. C. and the requirements of this article.

B. *Foundations.* All manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

1. In flood hazard areas (Zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code Residential Section R322.2 and this article.

2. In coastal high hazard areas (Zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.3 and this article.

C. *Anchoring.* All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over the top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

D. *Elevation.* All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V and Coastal A Zone).

E. *Enclosures.* Enclosed areas below elevated manufactured shall comply with the requirements of the Florida Building Code Residential Section R322.2 or Section R322.3 for such enclosed areas, as applicable to the flood hazard area.

F. *Utility equipment.* Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential Section R322.

10.02.15 *Recreational vehicles and trailer parks.*

A. *Temporary placement.* Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

1. Be prohibited to park or store a recreational vehicle for more than a total of three days, or any part thereof in any consecutive seven-day period on a residential driveway; or

2. Be fully licensed and ready for highway use, which means the recreational vehicle or park model is on wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanent attachments such as additions, rooms, stairs, decks and porches.

B. *Permanent placement.* Recreational vehicles and park trailers that do not meet the limitations in Section 10.02.15.A of this article for temporary placement shall meet the requirements of Section 10.02.14 of this article for manufactured homes.

10.02.16 *Tanks.*

A. *Underground tanks.* Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty.

B. *Above-ground tanks, not elevated.* Above-ground tanks that do not meet the elevation requirements of Section 10.02.16.C of this article shall:

1. Be permitted in flood hazard areas (Zone A) other than coastal high hazard areas, provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy, assuming the tank is empty, and the effects of flood-borne debris.

2. Not be permitted in coastal high hazard areas (Zone V).

C. *Above-ground tanks, elevated.* Above-ground tanks in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area.

D. *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:

1. At or above the design flood elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

*10.02.17 At-grade accessory structures.*

At-grade accessory structures are permitted provided the accessory structures are used only for parking or storage and:

1. If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are one-story and not larger than 600 sq. ft. and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.

2. If located in coastal high hazard areas (Zone V/VE), are not located below elevated buildings and are not larger than 100 sq. ft.

3. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

4. Have flood damage-resistant materials used below the base flood elevation plus two (2) feet.

5. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus two (2) feet.

10.02.18~~7~~ *Other development.*

A. *General requirements for other development.* All development, including man-made changes to improved or unimproved real estate for which specific provisions are not specified in this article or the Florida Building Code, shall:

1. Be located and constructed to minimize flood damage;

2. Meet the limitations of Section 10.02.13.E of this article if located in a regulated floodway;

3. Be anchored to prevent floatation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;

4. Be constructed of flood damage-resistant materials; and

5. Have mechanical, plumbing, and electrical systems above the design flood elevation or meet the requirements of ASCE 24, except that minimum electric service required to address life safety and electric code requirements is permitted below the design flood elevation provided it conforms to the provisions of the electrical part of building code for wet locations.

6. 2 ft freeboard above established flood elevation.

B. *Fences in regulated floodways.* Fences in regulated floodways that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 10.02.13.E of this article.

C. *Retaining walls, sidewalks and driveways in regulated floodways.* Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 10.02.13.E of this article.

D. *Roads and watercourse crossings in regulated floodways.* Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways, shall meet the limitations of Section 10.02.13.E of this article. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 10.02.07.C.3 of this article.

E. *Concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses in coastal high hazard areas (Zone V).* In coastal high hazard areas, concrete slabs used as parking pads, enclosure floors, landings, decks, walkways, patios and similar nonstructural uses are permitted beneath or adjacent to buildings and structures provided the concrete slabs are designed and constructed to be:

1. Structurally independent of the foundation system of the building or structure;

2. Frangible and not reinforced, so as to minimize debris during flooding that is capable of causing significant damage to any structure; and

3. Have a maximum slab thickness of not more than four inches.

F. *Decks and patios in coastal high hazard areas (Zone V).* In addition to the requirements of the Florida Building Code, in coastal high hazard areas decks and patios shall be located, designed, and constructed in compliance with the following:

1. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the design flood elevation and any supporting members that extend below the design flood elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck.

2. A deck or patio that is located below the design flood elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

3. A deck or patio that has a vertical thickness of more than 12 inches or that is constructed with more than the minimum amount of fill necessary for site drainage shall not be approved unless an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to the building or structure or to adjacent buildings and structures.

4. A deck or patio that has a vertical thickness of 12 inches or less and that is at natural grade or on nonstructural fill material that is similar to and compatible with local soils and is the minimum amount necessary for site drainage may be approved without requiring analysis of the impact on diversion of floodwaters or wave runup and wave reflection.

G. *Other development in coastal high hazard areas (Zone V).* In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate federal, state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
2. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters; and
3. On-site sewage treatment and disposal systems defined in 64E-6.002, F.A.C., as filled systems or mound systems.

H. *Nonstructural fill in coastal high hazard areas (Zone V).* In coastal high hazard areas:

1. Minor grading and the placement of minor quantities of nonstructural fill shall be permitted for landscaping and for drainage purposes under and around buildings.
2. Nonstructural fill with finished slopes that are steeper than one unit vertical to five units horizontal shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.
3. Where authorized by the Florida Department of Environmental Protection or applicable local approval, sand dune construction and restoration of sand dunes under or around elevated buildings are permitted without additional engineering analysis or certification of the diversion of floodwater or wave runup and wave reflection if the scale and location of the dune work is consistent with local beach-dune morphology and the vertical clearance is maintained between the top of the sand dune and the lowest horizontal structural member of the building.

10.02.1~~98~~ *Critical facilities.*

A. New critical facilities shall be directed and sited away from special flood hazard areas. A critical facility shall have at least one access road connected to land outside the special flood hazard area that is capable of supporting a 4,000-pound vehicle. The top of the road shall be no lower than six inches below base flood elevation.

B. New critical facilities proposed for construction within a Special Flood Hazard Area without a determined base flood elevation shall be permitted with an issued Letter of Map Change demonstrating that the entire project area is outside the Special Flood Hazard Area.

( Ord. No. 2018-13 , § 2, 4-17-18; Ord. No. 2021-22 , § 2, 10-5-21)

**Editor's note—** Ord. No. 2018-13 , § 2, adopted April 17, 2018, changed the title of § 10.02 from "Flood Damage Protection" to read as herein set out.

Sec. 10.03. - Wellfield Protection.

10.03.01. *Purpose and intent.* There is a need to protect existing and future public water supply wells within the City from the irreversible and adverse effects of groundwater contamination. It is the intent and purpose of this section to safeguard the health, safety, and welfare of the citizens of the City by protecting groundwater resources. Therefore, it is the City's intent to provide minimum standards to regulate land use activities, storage, handling, use, or production of regulated substances within zones of protection surrounding public water supply wells. Nothing herein supersedes more stringent setback or permitting requirements contained in other applicable federal and state wellhead protection regulations.

10.03.02. *Wellhead protection zones and interpretation.* The regulations set forth in this section shall apply to all lands surrounding an existing public water supply well designated as the primary and secondary protection zone(s) as defined in this section. This regulation shall apply to all proposed public water supply wells if the specific location has been identified and the public or private entity owns the well site.

A. *Wellhead location map.*

1. The Land Use Administrator shall maintain wellhead protection zone maps that designate and geographically depict the primary and secondary wellhead protection zones.

2. The Land Use Administrator shall review the wellhead protection zone maps and amend them as necessary. The basis for amending such maps may include, but is not limited to, the following:

   a. Changes in technical knowledge regarding the intermediate and Floridan aquifer system;

   b. Changes in well pumping rates; and

   c. Reconfiguration of or the addition of a well within the City's boundary.

B. *Protection zones.*

1. *Primary wellhead protection zone.* Shall be circular with a fixed 500-foot radial setback distance around the wellhead and shall include the surface and subsurface area surrounding the wellhead.

2. *Secondary wellhead protection zone.* Shall be an area delineated around the favorable potable water production areas for the Floridan and intermediate aquifer as depicted on the "Wellhead Protection Zone Map" on file at the office of the City Clerk.

C. *Interpretation of zone designation.* To determine applicable protection measures for properties and buildings within the primary or secondary wellhead protection zone, the following rules shall apply:

1. Properties located wholly or partially within a wellhead protection zone shall be governed by the restrictions applicable to that zone.

2. Where the boundary of a wellhead protection zone passes through a building, the entire building shall be considered to be in the most restrictive zone.

10.03.03. *Exemptions and provisional exemptions.*

A. *Exemptions.* Except as provided herein, the following activities or uses are exempt from the provisions of this section:

1. Fire, police, emergency medical services, emergency, and management facilities.

2. Essential utility services and facilities provided that wellhead setback requirements are in accordance with applicable federal and state law.

3. The transportation of any hazardous substance if the transporting vehicle is in continuous transit and meets all applicable federal, state, and City requirements.

4. Retail/wholesale establishments that store or handle an unlimited amount of regulated substances for resale provided:

   a. The regulated substances are handled, stored, and sold indoors.

   b. The regulated substances are stored and sold in their original unopened containers.

5. Residential activities including the use of commonly used regulated substances for cleaning, maintenance, pool service, pest control, or any other lawful residential use activity except for underground storage of regulated substances.

6. Commercial products used at a facility solely for janitorial or minor maintenance purposes.

7. Outdoor recreational activities and facilities including nature and bike paths, conservation areas, and passive and recreational parks that do not involve the storage of regulated substances.

B. *Provisional exemptions.* The following activities are exempt, if in compliance with requirements as stated:

1. The use of any hazardous substance or lubricants in lawn maintenance equipment, if extreme care is taken to prevent spillage or discharging fuels and lubricants onto soils, groundwater, or surface water.

2. Agricultural uses, except that said uses shall comply with the latest version of the Florida Department of Agricultural and Consumer Services and Florida Department of Environmental Protection Best Management Practices for Agrichemical Handling and Farm Equipment Maintenance. In addition, silviculture operations shall conform to the Florida Department of Agricultural and Consumer Services Silviculture Best Management Practices, 1993, as amended from time to time. Alternative best management practices may be substituted with prior written approval by the City.

3. Construction activities, if all contractors, subcontractors, laborers, and their employees, when using, handling, storing, or producing regulated substances, adhere to the City's applicable best management practices.

4. The application of pesticides, herbicides, fungicides, and rodenticides in recreation, agriculture, pest control and aquatic weed control activities if:

   a. The application is in strict conformity with the use requirement as is indicated on the containers in which the substances are sold;

   b. The application is in strict conformity with the requirements as set forth in the Florida Statutes and the Florida Administrative Code; and

   c. The City is notified at least 48 hours prior to the application within the primary wellhead protection zone.

5. New golf courses, if compliance is demonstrated by submitting to the City a written best management practices plan subject to approval by the Land Use Administrator and, which at a minimum, conforms with the Florida Department of Environmental Protection May, 1995 Best Management Practices for Golf Course Maintenance Departments and the City's groundwater protection prevention measures for secondary wellhead protection zones. New and existing golf courses shall comply with Subsection 10.03.06 herein.

10.03.04. *Regulated substances and facilities.*

A. *Regulated substances.* The following substances are regulated by this section:

1. Any substance, including petroleum or derivatives thereof, or combination of substances which because of their quantity, concentration, physical, chemical, infectious, flammable, combustible, radioactive, or toxic characteristics, may cause or significantly contribute to a

present or potential risk to human health, safety, or welfare, to the groundwater resources, or to the natural environment; or

2. Those substances set forth in the lists, as amended from time to time, entitled: Lists of Hazardous Waste, 40 Code of Federal Regulations Part 261, Subpart D, and waste characterized in 40 Code of Federal Regulations 261 Subpart C; Hazardous Constituents-Appendix VIII, (40 CFR Part 261); Environmental Protection Agency Designation Reportable Quantities, List of Hazardous Substances and Notification Requirements for Hazardous Substances under the Comprehensive Environmental Response, Compensation, and Liability Act (40 CFR 302); Superfund Amendments and Reauthorization Act of 1986, Section 302 Extremely Hazardous Substances List (40 CFR. 300, App. A and B); known hazardous and toxic properties as listed in 40 CFR 302; and substances that are restricted-use pesticides according to the Florida Statutes and the Florida Administrative Code.

B. *Regulated facilities.*

1. Any new nonresidential use, handling, production, or storage of regulated substances found in quantities greater than the following shall be considered a regulated facility:

   a. When the aggregate sum or a single regulated substance present on a single parcel or building exceeds 110 gallons underground; and

   b. Five hundred fifty gallons aboveground if the substance is a liquid or 1,100 pounds if a solid.

2. Any existing nonresidential use, handling, production, or storage of regulated substances is lawful and shall be considered a nonconforming activity:

   a. When the aggregate sum or a single regulated substance present on a single parcel or building exceeds 110 gallons underground; and

   b. Five hundred fifty gallons aboveground if the substance is a liquid or 1,100 pounds if a solid.

3. Facilities listed in Subsection 10.03.05 herein are regulated facilities.

10.03.05. *Restrictions within wellhead protection zones.* In addition to the requirements set forth in this section, applicable facilities shall comply with the Florida Department of Environmental Protection wellhead protection standards in accordance with the Florida Administrative Code and the City's Groundwater Protection Preventative Measures and comply with Best Management Practices to prevent adverse impacts to groundwater resources.

A. *Secondary wellhead protection zone.* The following regulated uses and activities proposed within the secondary wellhead protection zone are prohibited; however, if existing as a legal use on November 16, 2008, may be allowed provided they comply with the requirements of Subsection 10.03.07:

1. New Class I, II, and V underground injection control wells, as regulated in the Florida Administrative Code, except for aquifer storage and recovery system wells or other necessary potable water drinking facilities injection wells as permitted by the appropriate state agency.

2. New or expanded landfills, as defined by the Florida Administrative Code.

3. New discharges to groundwater of industrial wastewater as regulated under the Florida Administrative Code.

4. New septic tank systems.

5. Prohibitions as specified under the City's Groundwater Protection Preventative Measures.

B. *Primary wellhead protection zone.* Regulated uses and activities proposed within the primary wellhead protection zone shall comply with requirements in Subsections 10.03.06 and 10.03.07 to protect potable water wells and to prevent the need for their replacement or restoration due to contamination.

The following regulated uses are prohibited within the primary wellhead protection as a new use; however, if existing as a legal use on November 16, 2008, may be allowable provided they comply with the provisions of Subsection 10.03.07:

1. New underground storage of regulated substances.
2. Existing small quantity generators and conditionally exempt small quantity generator of hazardous waste, as regulated under the Florida Administrative Code, shall comply with the secondary containment requirements of 40 Code of Federal Regulations Part 264 Subpart I (1994), as amended, hereby incorporated by reference. New small quantity generator and conditionally exempt small quantity generator activities shall be prohibited within a 500-foot radial setback from any well.
3. New large quantity generators of hazardous waste as regulated under the Florida Administrative Code.
4. New hazardous waste, treatment, storage, disposal, and transfer facilities requiring permits under the Florida Administrative Code.
5. New soil treatment facilities as regulated under the Florida Administrative Code.
6. New above ground storage tanks regulated under the Florida Administrative Code. Replacement of an existing above ground storage tank of the same or less capacity is exempt from this provision if the replacement tank system is installed with secondary containment and maintained as required in the Florida Administrative Code.
7. New underground storage tanks regulated under the Florida Administrative Code. Replacement of an existing underground storage tank of the same or less capacity is exempt from this provision if the replacement tank system is installed and maintained as required in the Florida Administrative Code.
8. New mineral acid above ground storage tanks as regulated under the Florida Administrative Code.
9. New industrial wastewater treatment facilities.
10. Vehicular and washing facilities provided the facility establishes reclaimed and reuse practices for the water supply.
11. Motor vehicle repair facilities.
12. Outside storage of equipment, tools, or other possessions that may have the potential to discharge regulated substances or adequate best management practices are utilized to prevent such discharges.
13. New cemeteries.
14. No new retention and/or detention facilities including but not limited to stormwater treatment facilities.
15. Parking areas, unless:
    a. Impervious with adequate stormwater design to a location outside of the zone.
    b. Florida Department of Transportation Standard Type D and/or equivalent raised curb is used.
    c. Other means of advanced water quality treatment are provided.

10.03.06. *Permits, applications, and administrative process.*

A. *Permit requirements.*

1. No permit or license for any land use activity will be issued that would allow development or land use activities in the wellhead protection zones that is contrary to the restrictions and provisions provided herein.

2. Proposed land use or activities that involve property located wholly or partially within a protection zone shall be reviewed by the Land Use Administrator. The Land Use Administrator shall issue a notice as to whether or not the proposed land use or activity meets the applicable requirements of this section. A preliminary evaluation shall be conducted for all applicants to determine if proposed land use activities are exempt or do not apply to this section.

B. *Application procedure.* Prior to the Land Use Administrator issuing an approval notice for property or land use activities located in a wellhead protection zone, an application shall be filed on a form and containing such information as the Land Use Administrator shall require by administrative rule.

C. *Permit conditions.* The City may place conditions on any development order or permit or license to ensure compliance with all of the prohibitions, restrictions and requirements set forth in this section. Such conditions may include, but are not limited to, facility inspections, groundwater monitoring, and compliance reporting.

D. *Alterations and expansion.* The Land Use Administrator shall be notified in writing prior to the expansion, alteration, or modification of any existing structure or land use activity. Any such expansion, alteration, or modification shall conform to this section.

10.03.07. *Facility inspections.* The Land Use Administrator is hereby authorized to make inspections during normal operational hours of all facilities or activities regulated by this section, including nonresidential buildings, structures, and land in the City in order to determine compliance with provisions contained in this section.

A. *Administrative inspection warrant.* In the event a person who has common authority over a building, structure, or land does not permit an inspection, the City may seek an administrative inspection warrant.

B. *Vacant or abandoned properties.* In the event a building, structure, or land appears to be vacant or abandoned and the property owner cannot be readily contacted in order to obtain consent for an inspection, the Land Use Administrator may enter into or upon any open or unsecured portion of the site in order to conduct an inspection.

10.03.08. *Variances.*

A. *Variance criteria.* A property owner may request a variance from the requirements of this section. Upon City staff recommendation, the Utility Advisory Committee may perform a complete technical review for all variance applications and provide a recommendation to the Planning and Land Development Regulation Board. The Planning and Land Development Regulation Board shall have the authority to approve or deny issuance of a variance. In order to obtain a variance, the applicant must demonstrate by a preponderance of substantial, competent evidence that special or unusual circumstances and adequate technology exist to isolate the facility or activity from contaminating groundwater resources in the event of a spill. In granting or denying a variance, the City shall evaluate the following factors:

1. Substances or chemicals utilized that may impact groundwater resources if not properly managed;

2. Proposed containment/management of substances or chemicals;

3. Spill prevention and emergency response plans;

4. Emergency collection devices and equipment maintenance programs;
5. Monitoring plans and inspection procedures;
6. Spill reporting procedures;
7. Groundwater and/or soil monitoring programs;
8. Hydrological data that may include, upon City request, capture zone analysis, groundwater flow contours, and other hydraulic characteristics of the aquifer;
9. Distance from public supply well(s) and applicable wellhead protection zone(s);
10. Other factors, as applicable to groundwater protection issues.

B. *Variance application requirements.* In addition to the requirements stated in Chapter 2 for variance applications and review procedures, the following additional requirements shall apply to variances from this section:

1. The application shall be signed by the applicant and a licensed professional engineer or professional geologist licensed in the state of Florida;
2. The application shall include:
   a. A hydrogeologic assessment of the site, which shall address, at a minimum, soil characteristics, groundwater levels, groundwater directional flow, distance from wellhead, and existing groundwater quality;
   b. A technical report to demonstrate that adequate technology, practices, or other controls exist to isolate the facility or activity from the potable water supply in the event of a spill;
   c. A discussion and documentation, such as published reports, technical articles, substantiating sufficient performance, and reliability of a proposed technology or system. Include discussion of maintenance and procedures to be utilized if system fails; and
   d. Site-specific applicable groundwater protection best management practices procedures to ensure the protection of groundwater resources.
3. The Land Use Administrator may require additional information based on the type of land use activity proposed, chemicals utilized, distance from wellheads, or other applicable information needed to evaluate the application.
4. The City may add any appropriate conditions and safeguards necessary to protect groundwater resources pursuant to such special exemptions.

(Ord. No. 2009-26, § 49, 12-15-09)

Sec. 10.04. - Endangered and Threatened Species and Species of Special Concern.

10.04.01. *Purpose and intent.* The purpose of this section is to protect the natural resources of the City for the benefit of its citizens by preventing the destruction of listed plant and animal species in the City. The City shall take all reasonable steps to ensure that all development related activities do not result in the harming, pursuit, or harassment of wildlife species classified as endangered, threatened, or a species of special concern listed by the federal or state government. Those endangered and threatened wildlife species and wildlife species of special concern with the potential to exist within the City are determined by the United States Fish and Wildlife Service, the Florida Fish and Wildlife Conservation Commission, the Florida Natural Areas Inventory, and Florida Committee on Rare and Endangered Plants and Animals publications. The City shall protect endangered and threatened species through the regulatory authority of Florida Department of Environmental Protection, St. Johns River Water

Management District, Florida Fish and Wildlife Conservation Commission, and the United States Fish and Wildlife Service, as mandated by the Federal Endangered Species Act of 1973 and the Florida Endangered and Threatened Species Act of 1977, and other applicable laws, rules, and regulations.

10.04.02. *Applicability.* All development, regardless of size and location, shall comply with federal and state regulations regarding listed species that may be located on a development site, as well as regulatory policies related to management requirements for species that may occur off-site (e.g. American bald eagle nests and associated protection zones, Florida scrub jay nest sites/territories). Prior to the issuance of a building permit, the applicant shall obtain all necessary federal and state permit authorizations, as appropriate.

10.04.03. *Listed species protection application and study.* Listed species likely to be found within the City are determined by the United States Fish and Wildlife Service, Florida Fish and Wildlife Conservation Commission, Florida Natural Areas Inventory, and Florida Committee on Rare and Endangered Plants and Animals publications.

A. *Applicability.* All applications for preliminary plats or site plans shall include a listed species study. The listed species study shall be completed by a qualified environmental professional. The listed species study, after deemed complete by the Land Use Administrator, shall be acceptable for one year for the property that was investigated. The listed species study shall include appropriate field investigation and associated exhibits prepared in accordance with an application form adopted by administrative rule issued by the Land Use Administrator.

B. *Management plan.* Where listed species evidence is found, the listed species study shall include a management plan. The management plan shall address the approach to be used in protecting the species or shall include an authorized permit from the appropriate federal or state agency. The adequacy of this approach shall be evaluated based on the following:

1. The specific guidelines and regulations of the Florida Fish and Wildlife Conservation Commission or the United States Fish and Wildlife Service for species.

2. The dedication as a conservation easement of any approved areas preserved for listed species protection.

3. The connection of conservation easements on the subject development property to any such conservation easements on adjoining properties and/or to any designated wildlife corridor unless the applicant demonstrates to the satisfaction of the Land Use Administrator that such connection is impractical in the use of the subject property.

4. The property owner shall be responsible for relocating gopher tortoises on site or other suitable locations as approved by the Florida Fish and Wildlife Conservation Commission and providing an approved After-Action Report prior to any clearing activities.

10.04.04. *Listed species protection during construction activities.* In the absence of an appropriate listed species permit(s), development related activities shall not cause the harming, pursuit, or harassment of wildlife species classified as endangered, threatened, or a species of special concern by either the federal or state governments in contravention of applicable federal and state laws, rules, or regulations. Should listed species reside on, or otherwise be significantly dependent upon the subject property, all development activities that might negatively affect that individual or population shall cease. The applicant shall notify the City, the Florida Fish and Wildlife Conservation Commission, and the United States Fish and Wildlife Service, to the extent required by law, if such species are determined to be residing on, or are otherwise significantly dependent upon, the project site. Property shall be developed in full compliance with all applicable laws, rules, and regulations. Proper protection to the satisfaction of all agencies with jurisdiction over the matter shall be provided. Where appropriate, the City shall require a preliminary gopher tortoise survey for existing single-family platted lots prior to the initiation of construction activities. The preliminary gopher tortoise survey shall be conducted by a qualified environmental professional and results of said survey shall be submitted to the City for review. Should gopher tortoises be present on the subject property, the permit and After Action Report ~~all necessary~~

~~permits~~ shall be submitted to the City prior to the commencement of any ground disturbing activities ~~commencement of construction activities~~. Gopher tortoises shall be relocated to suitable habitats in accordance with FFWCC permit requirements.

10.04.05. Wildlife Crossing. In areas of wildlife corridors where the project proposes fragmenting habitats or conservation corridors, site plans should include dedicated wildlife crossings to minimize ecological impacts and preserve natural movement of wildlife.

Sec. 10.05. - Cultural and Historic Resources.

10.05.01. *Purpose and intent.* The purpose of this section is to protect and manage the significant historic and archaeological resources of the City of Palm Coast to the maximum extent feasible, by providing procedures for the review of plans and development projects as well as maintain standards for the protection and management of these important resources.

10.05.02. *Lands not subject to cultural resource survey.* A cultural resource field survey and assessment report is not required for parcels that have undergone a cultural resource investigation within 5 years from the time of application~~,~~ and the assessment concludes that the land does not contain cultural resources that are considered by the Florida Department of Historical Resources State Historic Preservation Officer to be significant or potentially significant. A copy of correspondence from the state historic preservation officer shall be submitted to the City, verifying that the subject property does not contain significant or potentially significant cultural resources.

10.05.03. *Lands subject to cultural resource ~~investigation~~assessment survey and other archeological investigation.* A Phase 1 cultural resource investigation shall be accomplished before the issuance of a development order or permit or prior to the commencement of construction activities, or any other physical impact or disturbance of land that:

A. Takes place within a parcel that has not been previously ~~investigated~~ surveyed for cultural resources.

B. Takes place within a parcel that contains a site that is listed in the Florida Master Site File (FMSF) as "eligible~~significant~~" or as "potentially eligible~~significant~~" for listing in the National Register of Historic Places (the criteria by which site significance is measured), or in the City of Palm Coast's protected sites inventory, thus requiring further investigation.

C. Takes place within a recently discovered site deemed significant (NRHP criteria) that has not yet been recorded to ~~entered into~~ the Florida Master Site File or listed in the City of Palm Coast's protected sites inventory.~~.~~

D. Takes place on a parcel that has been determined to possibly contain a potential site that can be listed in the Florida Master Site File as determined by the Land Use Administrator.

E. Conduct an additional Cultural Resource Investigation by another cultural resource professional, at the applicant's expense, if the results of the initial investigation are deemed unsatisfactory by City staff.

10.05.04. *Professional qualifications and cultural resource assessment survey requirements.*

A. *Professional qualification.* Cultural resource professionals are certified archaeologists that meet the qualification in "The Secretary of the Interior's Historic Preservation Professional Qualification Standards" (Federal Register Vol. 62, No. 119, p. 33707).

B. *Cultural resources assessment survey ~~and assessment~~.* Cultural resource assessment surveys and related reports shall follow the guidelines of the Florida Division of Historical Resources, Department of State, Guidelines for Cultural Resource Assessment Surveys (CRAS) and Archaeological

Investigations outlined in Florida Division of Historical Resource Module 3, as amended, shall be followed; reporting of CRAS surveys shall follow DHR Chapter 1A-46 (Archaeological and Historical Report Standards and Guidelines), as amended, and the requirements of all applicable Florida Statutes. The SHPO reviews the referenced project in accordance with Chapter 267 and 373, Florida Statutes, and implementing state regulations, for possible effects on historic properties listed, or eligible for listing, in the National Register of Historic Places, or otherwise historical, architectural, or archeological value. Prior to the issuance of a development order or permit, or prior to the commencement of construction activities, a copy of a survey clearance letter issued by the Compliance Review Section, Division of Historical Resources, or other documentation of authorization by the State Historic Preservation Officer, shall be submitted to the City. Management recommendations regarding the protection, preservation, or mitigation of impact of historical or archaeological sites, in concurrence with the Division of Historical Resources should be followed. In addition, copies of Florida Master Site File forms generated during the cultural resource assessment study for the Division of Historical Resources shall be submitted to the City for their records. All Florida Master Site File forms generated for a City of Palm Coast LDC permit-required cultural resource assessment survey, or any other type of archaeological work shall be submitted to the Florida Master Site File, Division of Historical Resources, by a COPC official with the Planning Division. In some cases (to be determined by a COPC official) An initial site investigation may be utilized to determine cultural resource site probability for lands requiring a cultural resource investigation as approved by a certified archaeologist utilizing necessary criteria in accordance with state law to determine cultural recourse site probabilities. Said criteria include, but are not limited to, Florida Master Site File, historical information (historic map review)~~data~~, soil types,~~ and site~~land elevations, and proximity of the subject property to freshwater drainages such as rivers and creeks, coastal estuaries (Intracoastal Waterway) and subsistence-related natural resources. The following may substitute for a cultural resource assessment~~site~~ survey and assessment if certified by an RPA certified professional archaeologist in writing to the Land Use Administrator:

1. A determination that subject property has a low probability of yielding cultural resources.
2. A determination that proposed development activities will have no effect on cultural resources listed or eligible for listing in the National Register of Historic Places.
3. A determination that proposed development activities will have no effect on cultural resource value under federal and state requirements.

10.05.05. *Property containing potential and significant cultural resource sites.* If a property proposed for development to contain~~is determined to have a~~ a potentially significant or a significant cultural resource in areas proposed for development, the City shall adhere to the recommendations of the S~~s~~tate H~~h~~istoric P~~p~~reservation O~~o~~fficer and shall require the applicant to do one or more of the following prior to the issuance of a development order or permit:

A. Preserve cultural resources within the open space of the proposed development.

B. Redesign the development to accommodate preservation of all or a portion of the site containing the cultural resource such as but not limited to~~,~~ environmental setbacks, conservation easements, pocket parks, or conservation land.

C. The property owner may voluntarily fund or seek funding for Phase 3 mitigative excavations (data extraction) of the resource, if agreed to by the Florida Department of Historical Resources/State Historic Preservation Office.

10.05.06. *Fortuitous finds and unmarked human burials.* The following requirements apply to all building construction or alteration, or land alteration activities:

A. *Evidence of the existence of cultural resources.* If evidence of the existence of cultural resources is discovered or observed at development sites or during development activities after final approval, permits, or issuances of development orders, all work shall cease in the area of effect.

The developer, owner, contractor, or agent thereof shall immediately notify a professional archaeologist and the City. Examples of such evidence include whole or fragmentary stone tools, shell tools, indigenousaboriginal or historic pottery, bone tools, historic building structures foundations, burialshell mounds, shell middens, or sand mounds, or other types of prehistoric mounded architecture. A certified professional archaeologist selected and hired by the applicant, shall assess the significance of the finds and, if warranted, notify the Florida Division Department of Historical Resources/State Historic Preservation Office in accordance with federal and state requirements. A report or letter shall be submitted to the City from a certified professional archaeologist and, if warranted, a copy of a clearance letter from the Sstate Hhistoric Ppreservation Ooefficer indicating that the proposed development will have no effect on cultural resources listed or eligible for listing in the National Register of Historic Places, or otherwise of historical, architectural, or archaeological value.

B. *Discovery of human skeletal remains.* In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately, and the proper authorities notified in accordance with Section 872.05, Florida Statutes. During archaeological investigations, if a site is determined to contain unmarked human burials and/or human skeletal remains, by procedure these will be brought to the attention of a District Medical Examiner, if it was determined that the burial(s) represent an individual (or individuals) who had been dead less than 75 years, or to the attention of the State Archaeologist in the case that the remains were determined to be older than 75 years. If a site is determined to be a prehistoric indigenous site, all work will be done in coordination with the State Archaeologist (Florida Division of Historical Resources) who will make a final determination of adverse effect through the authority of their respective jurisdiction as defined by Florida Statutes. Procedures outlined in Chapter 872.05, Florida Statutes, will be followed regarding site mitigation and reporting, this through the authority and direction of the State Archaeologist and, if necessary, the District Medical Examiner. In some cases, the State Historic Preservation Office will make the determination to seek the consultation and review comments by the Tribal Historic Preservation Office (THPO)/Seminole Tribe of Florida (STOF).In accordance with the Florida Statutes, if any human skeletal remains or unmarked human burial is discovered, other than during a cultural resource excavation authorized by the state or an educational institution, all activity that may disturb the unmarked human burial shall cease immediately and the district medical examiner shall be notified. Such activity shall not resume unless specifically authorized by the district medical examiner or the state archaeologist.

(Ord. No. 2009-26, § 50, 12-15-09)

## Sec. 11.01. - General Provisions.

11.01.01. *Purpose and intent.* The purpose of this chapter is to protect the general welfare of City residents and visitors and to promote energy and water conservation; reduce air pollution and noise; enhance property values; reduce erosion; improve surface water quality and groundwater recharge; moderate temperatures by providing shade; improve compatibility between various land uses; and enhance the City's appearance. The intent of the chapter is to establish procedures and practices governing the protection, installation and long term maintenance of trees, vegetation, and other landscaping elements within the City. The criteria in this chapter are intended to institute landscape and irrigation design principles that will result in creative solutions and provide alternative means to achieve an environmentally sustainable~~friendly~~ and aesthetic community.

11.01.02. *Applicability.* The removal of trees or fill, and the excavation or dredging of any parcel of land shall be prohibited prior to issuance of all required permits (including tree removal permits), unless stated otherwise in this chapter.

A. *Design of new development.* Developments shall be designed to the greatest extent possible to protect existing trees and their tree protection zones from stormwater facilities, drainage lines, utilities, grade changes, building footprints, parking areas, drives, and walkways. Subdivision plats shall shift lot lines to minimize placing specimen or historic trees in the buildable area of the lot~~, if practical.~~ , to the greatest extent feasible as determine by the Land Use Administrator.

B. *Alteration of existing development.* No building or parking lot existing on August 19, 2008 shall be required to be altered or moved in order to comply with this chapter, except that the following activities shall require compliance with this LDC to the maximum extent possible. (Exceptions may be granted by the Land Use Administrator when development conflicts with pedestrian and traffic safety, interferes with the protection of specimen or historic trees or natural resources, removes required parking, or similar situations.)

1. When a structure is destroyed by fire or other calamity and is proposed to undergo substantial improvement, as defined in this LDC.
2. When an existing non-residential building is expanded, the required building foundation plantings and their planting areas shall be provided for the new building area.
3. When a parking/vehicular use area is expanded but not the building, the new pavement area is required to be brought into compliance with this chapter. At a minimum temporary irrigation shall be required.
4. Any expansion project shall include replacing previously planted required landscaping that has been damaged or has died.

11.01.03. *Measurement of trees.* For the purposes of this chapter, the size of existing trees shall be calculated by the measurement of the diameter of the trunk in ~~caliper~~ Diameter at breast height (DBH) (4 feet 6 inches above ground) inches.~~, taken at breast height (four feet six inches).~~ Trees with multiple trunks at breast height will have the sum of the trunks utilized for ~~The~~determination. Where the individual trunks are less than 9 inches in diameter, the largest 3 trunks will be used. The size of new landscape trees shall be calculated by measurement of the diameter of the trunk at 6~~six~~ inches above grade, up to and including trees four inches in diameter. The size of new trees over four inches in diameter shall be calculated by measurement of the diameter of the trunk at 12 inches above grade.

11.01.04. *Classification of developments.* For the purpose of applying landscaping and irrigation requirements, developments are classified as follows:

A. *MFR/COM:* Townhouse, condominium, and multifamily residential development and institutional, office and commercial uses;

B. *IND:* Industrial and warehousing development;

C. *SUBD:* Subdivisions in any zoning district; and

D. *SFR/DPX:* Single-family detached and duplex development on individual lots.

( Ord. No. 2016-6 , § 2, 11-1-16)

Sec. 11.02. - Tree Preservation, Protection, and Replacement.

11.02.01. *Protected trees defined.* All trees that meet the following criteria are protected, with the exception of invasive species (see Section 11.02.05.C.1) and/or species not suited to this area per the United States Department of Agriculture hardiness list:

A. The trunk is 6~~six~~ inches or greater diameter.

B. Trees with a trunk 4~~four~~ inches or greater diameter, if surveyed for credit.

C. Specimen trees, which are any protected trees with a trunk of 24 inches or greater diameter except for sand pines; however the following species are considered specimen trees when they reach one of the following:

1. 12~~Twelve~~ inches or greater diameter: Cypress, Magnolia, Loblolly Bay, Red Bay, Scrub Oak, and Red Cedar;

2. 18~~Eighteen~~ inches or greater diameter: Elm, Hickory, Oak, Green Ash, Sycamore, Date Palm, and Maple.

D. Historic trees, which are any protected trees with a trunk of 36 inches or larger diameter.

E. For SFR/DPX development, any tree 1½ inches or greater~~to six inches~~ in diameter that was planted to meet the minimum tree density requirements or an existing tree that was previously credited towards meeting the requirements of this chapter.

11.02.02. *Tree survey requirements.*

A. *Tree survey.* The required survey shall be accomplished within the last 24 months and shall identify all protected trees by species name and the size of the trunk measured at the diameter at breast height.

B. *Monument signs.* Where monument signs are proposed to be located on an existing development, all protected trees that are located within 50 feet of the proposed sign shall be shown on the tree survey. At time of sign permit application, all protective measures for these trees should be depicted.

C. *Protected, specimen, and historic trees.*

1. *MFR/COM and IND developments.*

a. The tree survey shall show all protected trees 6~~six~~ inches in diameter and greater from the property lines to 5~~five~~ feet past the required buffer area width, except as provided in Section 11.02.02.D. Protected trees within any adjacent rights-of-way extending to the nearest street pavement shall be included in the survey.

b. All specimen and historic trees shall be individually located and identified over the entire site as to species and size except as provided in Section 11.02.02.D.

2. *SUBD developments.* All protected, specimen, and historic trees shall be individually located and identified over the entire site as to its species and size except as provided in Section 11.02.02.D.

3. SFR/DPX developments.

a. Protected trees 6~~six~~ inches or greater diameter within all front, rear, and street side building setback areas shall be surveyed and shown on the tree survey if the trees are going to be used for credit.

b. Specimen and historic trees shall be surveyed over the entire lot except as provided in Section 11.02.02.D.

D. *Survey of individual trees not required.* Under the following circumstances, the Land Use Administrator may determine that a survey identifying each individual protected tree is not warranted and a count of all protected trees including species and diameter size is acceptable:

1. When existing vegetated areas are to remain undisturbed; or

2. Where some or all of a development site or a proposed subdivision must be filled to such an extent, in order for permitted development to occur, that there is no feasible means as determined by the Land Use Administrator to save protected, specimen, and historic trees.

3. When the trees are located in wetland preservation or conservation areas that will not be impacted.

11.02.03. *Tree preservation.*

A. *Specimen and historic tree preservation requirements.* Specimen and historic trees are select protected trees that due to their size and contribution to the overall tree canopy of the City are granted an extra level of significance and protection. Building footprints, drives, stormwater management facilities, and similar activities on all sites shall be designed to save the maximum practicable number of specimen and historic trees. During the subdivision platting process, lot lines shall be shifted for the same purpose. This requirement does not exclude the requirement for mitigation of any removed trees of protected statues during the subdivision process. Table 11-1 shows the minimum percentage of specimen trees and the minimum percentage of historic trees that must be preserved individually for each category on a site.~~Table 11-1 shows the minimum percentage of specimen and historic trees that shall be preserved on a site~~. Owners of lots assigned the SFR, DPX, and EST zoning districts may remove any specimen or historic tree that is within the buildable area of the lot with no mitigation, if all reasonable efforts as determined by the Land Use Administrator, to shift or flip the building footprint cannot save the tree(s). ~~This requirement does not exclude the requirement for mitigation of any removed trees of protected statues.~~

*Table 11-1: Minimum Specimen and Historic Trees to be Preserved*

| Number of Specimen/ Historic Trees on a Site *1 | Percentage of trees to be Preserved | |
|---|---|---|
| | MFR/COM, SUBD | IND |
| Less than 3 per acre, or a portion thereof | 75% | 50% |
| 3.0 to 5.0 per acre | 67% | 40% |
| 5.1 to 8.0 per acre | 50% | 25% |
| More than 8.0 per acre | 4 per acre | 2 per acre |

*1 For the purposes of compliance with tree preservation and mitigation requirements, specimen trees and historic trees shall be calculated and preserved as distinct categories.-

B. *Tree preservation credits.* The following credits apply only within the COM, IND, MFR, OFC, P&G, and PSP zoning districts:

1. Trees saved in wetlands or their associated upland buffers are eligible for preservation credits; however, preservation of trees in wetlands for preservation credits may not also be used as criteria for preserved wetlands and ~~imperiled upland habitats~~eEnvironmentally s~~S~~ensitive l~~L~~ands density bonuses established in Chapter 3.

2. A stormwater retention/detention area may be credited toward meeting the tree density requirement provided the area contains tree species that will survive periodic flooding.

3. The total diameter of preserved protected, specimen, and historic trees on the site may be applied to satisfy the tree density requirements. A preserved palm tree shall be credited on a one-to-one basis for any palm tree removed.

4. Existing pine trees (other than ~~s~~Sand pine, Australian pine, Norfolk Island pine, or other invasive tree species) in good health may be used as buffer shade tree credits if they are a minimum of six inches diameter and comprise no more than 50 percent of the buffer tree requirement. If pines meeting these criteria are of good quality and spacing such that planting of new shade trees for some or all of the remaining required buffer shade trees is impractical, then existing pines may count for more than the 50 percent maximum requirement.

11.02.04. *Tree protection measures.*

A. *Canopy road, specimen, and historic tree protection.* In order to protect the existing tree canopy over portions of roadways within the City, the following roadway segments have an extra level of significance and protection: Colbert Lane (from the south right-of-way line of Palm Coast Parkway SE to 2,200 feet to the south), Palm Coast Parkway east of 1-95, and Palm Harbor Parkway south of the Hammock Dunes Bridge.

1.Roadway projects and modifications to these roadway systems necessitated by development shall preserve and protect any specimen or historic tree within the right-of-way and within 35 feet of the right-of-way line along Colbert Lane (from the south right-of-way line of Palm Coast Parkway SE to 2,200 feet to the south), Palm Coast Parkway east of I-95, and along Palm Harbor Parkway south of the Hammock Dunes Bridge. The applicant may meet this requirement by utilizing an average protected width of 35 and a minimum width of 25 feet and maximum width of 45 feet. Within these protected tree areas, the specimen and historic trees shall not be removed except for the minimal number necessary to allow for site access, sidewalks, necessary utilities, and signage. Preservation methods are to include, but are not limited to, the following:

a~~1~~. Reduction of the length of turn, deceleration, or acceleration lanes subject to public safety needs and the approval of the Land Use Administrator.

b~~2~~. Consideration of alternatives to widening such as alternate service roads.

c~~3~~. Root protection/aeration construction methods such as retaining walls with guardrails.

d~~4~~. Where no practical alternative for preservation is possible, such as traffic safety conflicts, the total diameter of the protected tree being removed shall be replaced with replacement trees having no less than 4 ~~four~~ inch caliper.

2. *Additional canopy road preservation and mitigation requirements.* For all roadway segments designated under this section, and for any parcel, lot, tract, subdivision, development site,

or portion thereof that fronts, abuts, adjoins, obtains access from, or is otherwise affected by a designated canopy roadway, all preservation, protection, replacement, and mitigation requirements shall apply to the entirety of the affected property.

All required preservation measures, tree protection activities, replacement planting, mitigation, and restoration associated with the removal, impact, or disturbance of specimen trees, historic trees, or protected canopy areas shall be completed on the affected site. Compliance with the requirements of this section shall not be achieved through payment into a tree bank fund, tree mitigation fund, or any other off-site mitigation program.

Required preservation standards established by this section shall be met on-site and maintained throughout the affected property. Off-site mitigation, mitigation credits, preservation banking, fee-in-lieu payments, or similar alternative compliance mechanisms shall not be accepted as a substitute for the preservation, protection, replacement, or mitigation requirements of this section.

No development order, site plan approval, subdivision approval, permit, variance, or construction authorization affecting property subject to this section shall be approved unless the applicant demonstrates full compliance with the on-site preservation and mitigation requirements contained herein.

B. *Tree protection during clearing or tree trimming activities.* Protected trees, including their tree protection zones, in front buffer areas shall be preserved if trees are in good condition and do not impede access or visibility into or out of the site.

C. *Tree protection during construction.*

1. During any development activity, appropriate protective measures, per City standards, shall be taken to prevent the destruction or damage of all trees to be retained on the site. The preservation of existing vegetation within the tree protection zones of all trees to be retained is required, unless the vegetation is hand cleared.

2. Protection methods, including trimming/pruning of trees and tree barricades, shall conform to ANSI A-300 standards.

11.02.05. *Tree removal.*

A. *Prohibitions.* Unless exempted herein, it is prohibited, ~~and~~ unlawful, and finable for a person or entity, agent, or representative thereof, directly or indirectly, to perform or authorize the following:

1. Cut down, remove, damage, or destroy any protected tree as defined in Section 11.02.01 on any parcel without first obtaining a tree removal permit (for required mitigation standards on MFR/COM and IND properties refer to Section 11.04.02 and on SFR/DPX properties refer to Table 11-4);

2. Commit any act or authorize the commission of any act that physically or effectively removes a protected tree or causes a tree to die, such as damage inflicted upon the root system by heavy machinery, chemicals, or paving, any pruning or tree work inconsistent with ANSI A-300 standards, or changing the natural grade above the root system (removal or effective removal of any protected, specimen or historic tree on MFR/COM and IND properties shall be mitigated per Section 11.04.02 and on SFR/DPX properties refer to Table 11-4);

3. Root raking the area within the tree protection zone or adding fill over the tree protection zone, which may cause damage and permit infection or pest infestation to a protected tree; or

4. Perform tree removal, land clearing, grubbing, grading, excavation, construction, or make or install any improvement upon any site or parcel, regardless of the existence of valid permits or approvals for the given activity, unless all protected trees and protected vegetative areas established pursuant to this chapter have been surrounded by a protective barrier.

B. *Land clearing.* During the subdivision infrastructure construction stage, clearing of trees and existing vegetation shall be limited to the minimum necessary to construct roadway and utility rights-of-way and stormwater facilities. Trees may only be cleared from individual lots upon review and approval of the tree survey and/or fire hazard considerations at the time of building permit application. However, in order to accommodate development within a subdivision where fill is required to such a depth that it would preclude the survival of existing trees, lots may also be cleared provided:

1. A clearing and grading plan shall be submitted showing vegetation and tree areas to be preserved with proper protective barrier, the amount of fill needed for lot development based on existing grades, proposed roadway and building elevations, and drainage plans.

2. Replacement of these trees may be allowed in common areas of the subdivision (i.e., street trees, detention or retention ponds, buffer areas, etc.).

C. *Tree removal activities exempt from permit/replacement requirements.* The following activities shall be lawful without application or issuance of a tree permit and do not require tree replacement:

1. The removal of any invasive plant species as determined by the Florida Department of Agriculture and Consumer Services' "Noxious Weeds" rule set forth in the Florida Administrative Code.

2. The removal or alteration of any tree or vegetation in or about an existing City or utility easement or right-of-way provided such work is done by, or under the control of, the operating utility company, and said company has received all necessary licenses or permits to provide utility service within the easement.

3. Removal or effective removal of trees severely cut by a utility company on SFR and DPX zoned platted lots.

4. Any activity conducted by a lawfully operating and bona fide commercial nursery, tree farm, agricultural operation, silvicultural operation, ranch, or similar operation when the activity occurs on property owned or lawfully occupied by the person conducting said activity and is done in pursuit of said activity. This exemption shall include the purposeful removal of a tree or trees for their permanent relocation at another site undergoing development.

5. Trees located within a City drainage easement, City drainage rights-of-way, or City access rights-of-way that need to be removed to allow for access to or maintenance or clearing and construction of the City's drainage ditches and drainage related facilities.

6. Any activities being conducted under F.S. 163.045 for single family unattached dwellings that have a letter from a certified ISA arborist or a Florida Licensed Landscape Architect showing a tree possess an unacceptable risk to persons or property prior to removal.

D. *Permit requirements.*

1. A permit is required for land clearing/filling. It is prohibited and unlawful to clear trees, fill land, excavate, or dredge any parcel of land prior to the issuance of a single-family building

permit or a site development permit, unless otherwise stated in this LDC, or authorized by the Land Use Administrator. The building permit shall act as the tree removal permit.

a. Vacant properties may be partially cleared to enable the construction of seawalls prior to a permit being issued for a principal structure. Refer to Section 4.01 for requirements.

b. Vacant properties may be partially cleared for the purpose of removal of unsuitable debris or muck within the buildable area of a site. Refer to Chapter 9 for permitting requirements.

c. Vacant single-family residential properties that are under common ownership with any developed adjacent residential lot may be cleared of all pines, vegetation, and any trees less than six inches in diameter if the minimum tree densities are maintained or replaced. Refer to Chapter 9 for permitting requirements.

2. Prior to the removal of any protected tree, an application for tree removal shall be submitted to the City. If the requested removal is in conjunction with an approved building permit, grade and fill permit, or a site development permit, a separate permit need not be obtained, but tree removal shall be addressed during the development order review process. The following types of tree removals require a permit but mitigation is not required.

a. Trees within clusters if there is a need to relieve thinning or overcrowding of trees, as part of an approved fire mitigation plan.

b. Protected trees, exclusive of specimen and historic trees, that would not drop the lot below the minimum tree density requirements on SFR/DPX platted lots, as outlined in Section 11.03.01.A.

E. *Removal of protected trees.* Protected trees removed under this section shall require replacement on MFR/COM and IND properties per Table 11-2 and on SFR/DPX properties per Table 11-4 if the tree was originally preserved or planted to meet a requirement of this Chapter or the tree removal would cause the property to no longer meet the minimum tree density standards outlined in Section 11.03.01.A. Upon receipt of a completed application and verification on-site by a certified arborist or the Land Use Administrator, the Land Use Administrator may permit the removal of the following protected trees:

1. Dead, severely diseased, or severely injured trees, as determined by a certified arborist or the Land Use Administrator.

2. Trees that pose imminent danger to the health, safety, and welfare of the public and cannot be corrected through standard arboricultural procedures, as determined by a certified arborist.

3. Trees that pose a sight distance visibility problem along any public right-of-way.

4. Any pine tree within 30 feet of a structure or within a distance from a structure less than the tree's height may be removed as a safety precaution provided the property owner where the tree is located agrees to the removal and applies for the permit.

5. Trees causing structural damage to a foundation, driveway, parking lot, patio, wall, water or sewer line, or which interfere with the construction or repair of public infrastructure or facilities that cannot be corrected by standard arboricultural means.

F. *Tree removal on developed residential lots.* On developed lots zoned SFR, DPX, or EST all provisions of Section 11.02.05.D.2. and Section 11.02.05.E. would apply as well as the requirements to maintain the minimum tree density as outlined in Section 11.03.01.A. The following additional requirements also apply:

1. Protected trees, exceptlusive of specimen and historic trees that are in excess of the minimum tree density for the lot, can be removed without mitigation, but those not in excess of the minimum tree density require replacement per Table 11-4.

2. Removal of a, protected, specimen or a historic tree shall be mitigated as follows:

a. A protected tree – One shade tree per table 11-4

ba. A specimen tree—One shade tree per Table 11-4.

b. A historic tree—Two trees meeting the standards of Table 11-4 with at least one tree being a shade tree.

G. *Tree thinning on MFR/COM and IND developments.* On properties where the landscaping has been planted for a minimum of ten years or where the property owner has retained or planted more trees than required by this chapter and meets all of the standards of this chapter; tree thinning of overcrowded trees may be requested by the property owner or designated agent upon submittal of a report by a certified arborist to the City. After review, the Land Use Administrator may approve or conditionally approve a thinning of the overcrowded trees when the intent of the original landscape plan and this chapter would still be met by the removal of such trees, and where:

1. Required trees have matured and grown to such a size and density that tree thinning would be the most prudent methodology for maintaining the health and vibrancy of the trees; or

2. Trees in excess of the required minimum have matured and grown to such a size and density that tree thinning would only have an insignificant impact on the overall landscaping of the site.

Preference for removal shall be given to trees having poor structure, root issues, or in declining health. Tree replacement and mitigation are not required after tree thinning.

H. *Requirements suspended.* During a declared emergency, the Land Use Administrator may suspend the requirements of this subsection.

11.02.06. *Tree mitigation standards.* Applicants are strongly encouraged to preserve as much of the existing vegetation as possible. Therefore, existing protected trees are counted toward meeting the landscaping requirements for a site. By saving protected trees, rather than planting new ones, applicants can achieve the minimum planting requirements in a more efficient and economical manner.

Tree mitigation for all protected, specimen, and historic trees for MFR/COM and IND developments shall be provided as shown in Table 11-2 and for SFR/DPX properties shall be provided per Table 11-4. The property owner shall be responsible for the cost of mitigating the trees removed from the property by preserving existing trees, replanting trees on site, or paying a like fee to the tree bank fund (while still maintaining minimum tree density requirements).

*Table 11-2: Tree Mitigation Requirements for New MFR/COM and IND Development*

| Protected Trees | Specimen Trees | Historic Trees | Palm Trees |
|---|---|---|---|
| 70% of the predevelopment tree inches removed from the required perimeter buffer areas of the site. Minimum replacement tree size shall be 2½" caliper. | 70% of the tree inches removed from the site. Minimum replacement tree size shall be 3" caliper. | 100% of the tree inches removed from the site. Minimum replacement tree size shall be 3½" caliper. | 40% of palms removed from the site. Minimum replacement shall be 8' clear trunk palms (preferably Sabal Palms). |

11.02.07. *Tree bank fund established.*

A. If due to site conditions or configuration, it is impossible or impracticable for the property owner, applicant, or developer to meet the requirements for tree density and/or replacement on-site, the property owner, applicant, or developer shall pay fees of equivalent value into the tree bank fund or plant the trees off-site upon approval of a suitable site or sites by the City. The tree bank fund shall be a separate account set up and shown in City financial records in which all receipts are detailed. All monetary contributions paid to the tree bank fund pursuant to this section shall be used exclusively for the design, planting, or replacement of trees on public lands. Funds may also be used for relocating trees onto public lands. Funds may also be used for the design and installation of irrigation systems, mulching, arboricultural practices, and staking for these trees.

B. Valuation of contributions to the tree bank fund shall be based on the caliper size and height, if applicable, of the required hardwood tree replacement and quantity of the required palm trees in accordance with City standards. The valuation of cost shall include the current market value of similar type trees and include the following costs: tree cost, delivery, labor to install, mulching and staking.

( Ord. No. 2016-6 , § 2, 11-1-16)

Sec. 11.03. - Landscaping, Buffers, and Irrigation Requirements.

11.03.01. *General landscaping requirements.*

A. *Tree density requirements.* All developments shall be required to provide one tree for every 2,500 square feet, or major fraction thereof, of property area, excluding ponds, lakes and canals.

B. *Preserved trees.* Preserved trees, including those within wetland or associated upland buffer areas, may be counted towards the tree density requirements as long as they are, at a minimum, the same size as the required new trees (refer to Table 11-43). The trees must be in good structural condition and health and the root zone shall be protected during the construction phase of the project.

C. *Protected trees and plants.* The use of protected trees, understory trees, shade trees, accent plants, shrubs, and groundcovers is required to partially or totally satisfy the planting requirements of this chapter. MFR/COM, IND and SUBD developments may use existing healthy pine trees(non-native and invasive pines are not counted for credit), 6six inches diameter and over to meet the minimum tree requirements; however, no more than 2550 percent of the pine trees may be credited. The Land Use Administrator may approve alternate plantings if the purpose and intent of this Chapter are met and a nuisance or environmental hazard is not created.

D. *Native vegetation.* Use of native plants and plant species that conserve water, adapt to local conditions, and are drought tolerant are required for all new landscaping. MFR/COM, IND and SUBD developments are required to use reuse water if available. If not avaiableavailable, developmentsor shall plant at least 50 percent of the pervious area of the site with native plants or plants and sod that conserve water, adapt to local conditions, are noninvasive or nuisance species, and are drought tolerant.

E. *Alternative landscape betterment plan.* Where an applicant with a unique or difficult site to develop based on the shape of the lot or its developable area, as determined by the PLDRB or City Council, is unable to meet some of the specific landscaping standards in Chapter 11, the applicant may propose an alternative landscape betterment plan with at least the same quality of required plants and the same amount of landscaped area, but in a revised location or design layout. The

applicant must also provide at least two landscape hardscape features not otherwise required that are pedestrian friendly, such as fountains, benches or art work designed to withstand outdoor use. The PLDRB or City Council may approve or conditionally approve the alternative landscape betterment plan if the proposed changes will provide at least as much public benefit, screening from rights-of-way and adjacent properties, and aesthetic appeal as if the landscaping standards were strictly followed. All Tier 1 Technical Site Plans having a landscape betterment plan shall be reviewed by the PLDRB.

F. *Freestanding sign landscaping.*

1. All monument signs shall have shrubbery or flowers planted around the perimeter of the sign extending 3 ft minimum. Signs shall be located so as to provide both adequate visibility from the public rights-of-way, meet the Florida Department of Transportation Standards for Sight Triangles and Sight Distances, and preserve protected trees.

2. If freestanding signage cannot be shifted within the buffer to allow the required room for screen plantings between the sign and the outside parking envelope area without obscuring visibility to the sign, then the City shall allow a ten-foot radius from the base of the freestanding sign in which lower accent plantings are allowed in lieu of the screen plantings.

G. *Retention and detention ponds.* Stormwater retention/detention ponds shall be naturally shaped with rounded corners, having a minimum radius of seven feet for ponds between 2,500 and 10,000 square feet, and a minimum radius of least a 12 feet for ponds greater than 10,000 square feet, and without geometric straight sides where possible. All wet ponds shall incorporate a combination of aquatic and non-aquatic native plants around the perimeter of the pond to filter runoff of fertilizers, herbicides, and pesticides. This wet pond planting area shall have a minimum area equal to 15 percent of the perimeter of the pond multiplied by 7½ feet. (For example, a pond with a 200-foot-long perimeter would have a wet pond planting area of 225 square feet that could be planted as a five-foot-wide strip 45 feet long.) Alternatively, the applicant may plant some or all of the wet pond planting area within the pond as littoral zone plantings.

H. *Screening plantings.* Above ground structures such as: dumpster enclosures, mechanical equipment, backflow preventers, wells, pumps, tanks, ground-mounted HVAC units, transformers, generators, storage sheds, lift stations, utility cabinets, electrical panels, or ground-mounted cable/satellite television equipment; shall have a medium screen planting, as described in Table 11-4. If the structures are in areas that are visible from an improved public rights-of-way, a medium screen planting as described in Table 11-4 shall be provided between the structures and the rights-of-way. If the structures are in areas that are visible from a parking lot or abutting property without an intervening buffer, fence, or wall, then a medium screen planting, as described in Table 11-4, shall be provided between the structures and the parking lot or abutting property. On transformers, lattice may be used for screening instead. Where vegetation is planted, it shall be setback sufficiently so that at maturity it still meets the Florida Power and Light minimum setbacks from the transformers. All Screening shall be set back from mechanical equipment shall be set back 3 feet.

I. *Plan submittal requirements.* Landscape and irrigation plans shall be submitted for all MFR/COM, IND and SUBD developments and shall be prepared by a Florida registered landscape architect or other licensed professional authorized by state law to prepare such plans. SFR/DPX development landscape plans shall also be required, but do not need to be prepared by a landscape architect.

J. *Street trees and median planting.*

1. In all subdivisions, exclusive of those for SFR/DPX lots, and other developments involving the creation of new streets or shared private access roads, street trees shall be planted in the rights-of-way or a median, unless the Land Use Administrator determines that a conflict exists between trees and utilities located in the rights-of-way, or that sight distances or

recovery zones are not in compliance with sound and generally accepted engineering practices and principles. In such cases, the street trees shall be planted outside of the rights-of-way.

2. If street trees are to be located outside of the rights-of-way, trees shall be planted no farther than ten feet outside of the right-of-way line or abutting utility easement, and shall be perpetually maintained. All property owners' associations' covenants and restrictions shall include this requirement, and all property owners shall comply with this paragraph. Street tree plantings shall be in accordance with City standards.

3. Street trees may be included to satisfy the minimum requirements for tree density and buffers.

K. *Utility lines.* Shade trees shall not be planted under or within 15 feet horizontally of overhead power lines. Underground power lines, cable TV, and phone line clearance to trees shall be as specified by the utility providing the lines. Water mains shall be separated a minimum distance of ten feet from shade trees. Distances less than ten feet shall be reviewed and approved by the City. Understory trees that do not attain a height of no more than 14 feet, or that can be maintained below that height by pruning, may be planted under utility lines.

L. *Sight triangles.*

1. Where landscaping is proposed within a sight triangle at an intersection, landscaping shall be planted and maintained so that an unobstructed cross-vision is provided at a vertical level between two feet and seven feet, as measured from the centerline of the adjoining road. Trees may be permitted within the sight triangle, at the discretion of the Land Use Administrator, if the trees have a single trunk and foliage is kept trimmed between two feet and seven feet.

2. The dimensions of the sight triangle shall be as shown in Table 11-3, unless the Land Use Administrator determines other standards in the Florida Department of Transportation Standards for Sight Triangles and Sight Distances are more appropriate, based upon specific traffic or site conditions. The first distance in the table is for the leg along the proposed roadway, and the second distance is for the leg along the existing roadway that the new roadway will intersect. For example, if a proposed driveway will be located along an arterial roadway, choose "Driveway" in the second column and follow it to the right under "Arterial". In this case the leg distance would be 15 feet along the proposed driveway and 50 feet along the arterial roadway.

*Table 11-3: Sight Triangle Dimensions Along Driveways and Roadways*

| | | **Leg Distance on Existing Driveway or Roadway** (see the four columns below) | | | |
|---|---|---|---|---|---|
| | | **Driveway** | **Local Road** | **Collector** | **Arterial** |
| **Leg Distance on Proposed Driveway or Roadway** (see column to the right) | **Driveway** | 15'/15' | 15'/15' | 15'/15' | 15'/50' |
| | **Local Road** | 15'/15' | 15'/15' | 15'/35' | 15'/50' |

| | | | | | |
|---|---|---|---|---|---|
| | **Collector** | 35'/15' | 35'/15' | 35'/35' | 35'/50' |
| | **Arterial** | 50'/15' | 50'/15' | 50'/35' | 50'/50' |

Note: The first leg distance listed is the leg along the curb line of the proposed driveway or roadway and the second distance listed is along the curb line of the existing driveway or roadway where the proposed driveway or roadway will intersect. The third leg of the triangle would be a line connecting the furthest points of the two legs. There will be two sight triangles for "T" intersections and four sight triangles for full intersections.

M. *Landscape review for single-family subdivisions by certified HOAs.* A Homeowners Association, or Property Owners Association (HOA) may apply to the City for annual certification to allow deferral of City review of single family home landscape plans and landscape inspections to a certified HOA for the construction of new single-family homes, additions and accessory structures within a subdivision.

HOA certification will be valid for one calendar year from date of certification, and certified HOAs may apply for recertification annually. In order to be certified or recertified, a HOA must provide the following to the City:

1. Covenants and Restrictions or deed restrictions with landscaping requirements that meet or exceed the City's minimum landscape requirements for single-family homes.
2. Proof that the HOA has an Architectural Review Committee or its equivalent that will review landscaping plans for all new single-family homes within its subdivision.
3. Proof that HOA inspects and enforces its landscape requirements.

Approval of certification or recertification does not preclude the City, at its discretion, from conducting evaluation audits which may include landscape inspections, landscape plan review or other applicable evaluations to ensure City Landscape requirements are being enforced. Certification may revoked at any time for non-complying HOAs. Certification does not include the review and inspection for tree removal, fire mitigation, perpetual care, and landscaping and irrigation systems in common areas. The City reserves the right to enforce all provisions of City Codes, including this section. Every certified HOA must provide every ARC approved landscape plan to the City.

11.03.02. *Specific landscaping requirements for developments.*

A. *MFR/COM developments.*

1. *Foundation plantings.* Foundation plantings are intended to soften buildings and improve their aesthetics. Planting beds with a minimum width of four feet shall surround a minimum of 70 percent of the building elevation excluding areas adjacent to building entry doors, fountains, benches and sculptures. Bed lines, where practicable, shall be curvilinear and wrap the corners of the structure with shrubbery plantings no closer than three feet from the building. Screening that is at least four feet wide around loading areas, dumpsters, and mechanical equipment running parallel to the adjacent building elevation may be counted towards these requirements. On sites located along specially designated road segments or roads, as listed in Table 11-5, an average minimum foundation planting bed width of eight feet shall be provided. In this area, a minimum of two different heights of plant material shall be used along with understory trees at the rate of one tree per 50 lineal feet of building wall

length. These planting beds shall be located in the most visible areas. The following may be used in order to provide some alternatives to foundation plantings:

a. *Architectural design.* Foundation planting requirements for multifamily and nonresidential buildings may be reduced by the Land Use Administrator, when it is determined that building façade massing techniques, beyond the minimum architectural standards described in Chapter 13, provide a benefit similar to foundation plantings.

b. *Landscape design.* Alternative foundation plantings may be permitted (e.g., architectural planter, pots, etc.) or allowed to be relocated along an alternative building elevation by the Land Use Administrator and applied as a credit towards meeting the foundation planting requirement, if demonstrated and determined that the methodology is of equal benefit to the general public and appropriate automatic irrigation facilities are provided.

2. *Wildfire hazard assessment.* The development may be required, at the determination of the Land Use Administrator based on a Forest Resource Assessment and Strategy Map, to include a wildfire hazard assessment for the site prepared and certified by a forester, wildfire mitigation expert, or landscape architect. If the site is determined to be in a medium or higher wildfire hazard area, certain measures must be implemented prior to the issuance of a certificate of occupancy of the building. Wildfire mitigation shall be in accordance with City standards.

B. *IND developments.*

1. *Foundation plantings.* Planting beds at least four feet wide shall be planted adjacent to at least 60 percent of front building elevations, 25 percent of street side building elevations, and ten percent of interior side building elevations, but are not required along rear elevations. Areas adjacent to building entry doors, benches, fountains or sculptures are excluded from these calculations. The following may be used in order to provide some alternatives to foundation plantings:

a. *Architectural design.* Foundation planting requirements may be reduced by the Land Use Administrator, when it is determined that building façade massing techniques, beyond the minimum architectural standards described in Chapter 13, provide a benefit similar to foundation plantings.

b. *Landscape design.* Foundation planting may be relocated along an alternate building elevation if the Land Use Administrator determines that mitigating circumstances are present (e.g., limited depth to the property or the property has an unusual shape) and the alternate location provides equal or greater benefit to the general public.

2. *Wildfire hazard assessment.* The development may be required, at the determination of the Land Use Administrator based on a Forest Resource Assessment and Strategy Map, to include a wildfire hazard assessment for the site prepared and certified by a forester, wildfire mitigation expert, or landscape architect. If the site is determined to be in a medium or higher wildfire hazard area, certain measures shall be required to be implemented prior to the issuance of a certificate of occupancy of the building. Wildfire mitigation shall be in accordance with City standards.

C. *SUBD developments.*

1. *Common area.* Common areas within subdivisions including, but not limited to: entrance ways, recreation areas, gateways, and street islands; shall maintain the same tree density standards as required in Section 11.03.01.A. and the same minimum planting standards as shown in Table 11-4.

a. Temporary sales trailers are required to be skirted and have a short screen planting as defined and described in Table 11-4 with temporary irrigation around all sides visible to the public plus two understory trees, to improve its aesthetics.

b. Unless an easement for perpetual maintenance is provided, buffer planting areas, if required, shall be provided in the common areas of the subdivision and not on individual private lots.

c. Provisions for maintenance of common areas and conservation/wetland areas shall be made through covenants and restrictions or other means.

2. *Landscape buffers.* For subdivisions fronting any of the specially designated road segments or roads as noted in Section 11.03.05.B., Type B or G landscape buffers shall be required.

3. *Wildfire hazard assessment.* The development may be required, at the determination of the Land Use Administrator based on a Forest Resource Assessment and Strategy Map, to include a wildfire hazard assessment for the site prepared and certified by a forester, wildfire mitigation expert, or landscape architect. If the site is determined to be in a medium or higher wildfire hazard area, certain measures shall be required to be implemented prior to the issuance of a certificate of occupancy of the building. Wildfire mitigation shall be in accordance with City standards.

D. *SFR/DPX developments.*

1. *Number and type of trees.*

a. At least one tree shall be provided for each 2,500 square feet of lot area, or major fraction thereof, excluding ponds, lakes, and canals, per Section 11.03.01.A. On lots one acre or larger this minimum tree planting standard shall only be based on the portion of the lot being developed with buildings, swimming pools, pavement, or new landscaped areas including turf.

b. Regardless of lot size, a minimum of one shade tree shall be provided, preferably in the front yard. At least two shade trees shall be provided on lots at least one-third acre but less than two-thirds-acre, three shade trees shall be provided on lots two-thirds-acre but less than one acre, and four shade trees shall be provided on lots one acre or larger.

2. *Foundation plantings.*

a. Residential homes shall provide foundation plantings consisting of 16 shrubs as described in table 11-4. On interior lots, eight shrubs shall be planted in front of the home, and four shrubs planted on each side of the home. On corner lots, six shrubs shall be planted on each side of the home facing a street, and four shrubs planted on the interior side of the home. When the rear yard of a home faces a saltwater canal, lake, or golf course, an additional four shrubs shall be planted along the rear of the home.

b. All of these required shrubs shall be planted between 2½ and eight feet of the home's foundation.

c. The corners of the house shall be wrapped with shrubbery or have an understory tree planted there. Shrubbery shall be selected using varying heights to accent and soften walls.

3. *Minimum planting requirement.* There shall be a minimum planted area or preserved existing native vegetation area of 60 percent of the pervious open space. The remainder of the pervious open space area may be decorative gravel or decorative crushed stone commonly used for landscaping purposes, or mulches. All swales in rights-of-way shall be sodded.

11.03.03. *Tree and plant types, sizes, and quality.*

A. *Trees, shrubs, and groundcovers.* All trees, shrubs, and groundcovers shall meet or exceed the standards of a Florida No. 1 or better quality as set forth in the latest edition of Grades and Standards for Nursery Plants, Florida Department of Agriculture. Damage to any tree, shrub, or ground cover that puts the plant material at risk of not surviving due to the injury, is grounds for rejection. The planting requirements at time of installation are listed in the following table:

*Table 11-4: Minimum Planting and Maintenance Requirements*

| Type of Development | Shade Trees | Understory Trees | Shrubs and Groundcovers | Accent Plants |
|---|---|---|---|---|
| MFR/COM, IND and SUBD | Caliper: 3½" Hardwoods or 3 sabal palm trees at 8' clear trunk are required to replace 1 shade tree. | Caliper: 1½" Minimum container: 30 gallon-In parking lot islands minimum height shall be 12'—14'. | Shrubs: 3 gallon<br>Groundcover: 1 gallon<br>Short screen planting: shrubs 2' in height, 3-gallon container, and maximum 3' on-center spacing or shrubs 2½' in height, 7-gallon container, and maximum 4' on-center spacing. For either option shrubs shall achieve a minimum height of 3' within 2 years.<br>Medium screen planting: shrubs 2½' in height, 7-gallon container, and maximum 4' on-center spacing installed that achieves within 2 years a minimum height of 3½'.<br>Tall screen planting: shrubs 5' in height and 60% opacity installed that achieves within 2 years a minimum height of 6' and opacity of 80%. | Dwarf to medium 3-gallon container shrubs. Height: 12" minimum at time of planting. |
| SFR/DPX | Caliper: 2" Hardwood or 3 sabal palm trees clustered at 8~~3~~' clear trunk are required to replace 1 shade tree. | Caliper: 1" Minimum container: 15-gallon | Shrubs: 3 gallon<br>Short screen planting: shrubs 2' in height, 3-gallon container, and maximum 3' on-center spacing or shrubs 2½' in height, 7-gallon container, and maximum 4' on-center spacing. For either option, shrubs shall achieve a minimum height of 3' within 2 years. | None required |

Notes
1. A ten-percent tolerance level may be provided to the above minimum plant sizes to reflect plant variability, or 20-percent tolerance level during times of extremely limited plant availability, at the determination of the Land Use Administrator.
2. Short, medium and tall screen plantings shall be non-deciduous, always maintained to meet their minimum height and opacity standards, and if planted on a berm, the berm may count towards the screening height.
3. Trees shall be allowed to grow to their natural height and typical shape in MFR/COM, IND and SUBD Developments.
4. In the case of mitigation for a historic tree on SFR/DPX properties, also see Section 11.02.05.F.2.b.

1. Existing trees shall count towards any tree requirements as noted in this Chapter if:
   a. The trees are equal to or greater than the minimum sizes in Table 11-4;
   b. Are in good structural condition and health; and
   c. The root zone is protected during the construction phase of the project.
2. For MFR/COM, IND and SUBD developments a cluster of three palm trees or one date palm with a minimum of 8 ft of clear trunk may replace up to 25 percent of the required shade trees, at the ratios shown in this Chapter. Where an architectural theme in ~~a~~an MFR/COM or SUBD development has a dominant tropical design, clusters of three palm trees may replace 50 percent of the required shade trees with the same spacing requirements. On SFR/DPX developments, clusters of three palm trees may replace up to 50 percent of the required shade trees, but in all cases at least one shade tree shall be provided.

B. *Turf.* Grass areas shall be planted with sod in a species normally grown as permanent lawns in East Central Florida. Newly installed Bahia sod shall be healthy and have no more than 20 percent weeds or unlike grass species. Newly installed St. Augustine, Seashore Paspallum, Bermuda, and Zoysia sod shall have no more than five percent weeds or unlike grass species. For newly installed turf where irrigation is not provided, grass species shall be Bahia grass or Bermuda grass where appropriate. All areas of a disturbed site not otherwise landscaped or not left in natural native vegetation shall be grassed, or mulched, at a minimum.

11.03.04. *Parking lot landscaping requirements.*

A. *Screening.* Screening from the right-of-way and adjacent properties in the form of a short screen planting, as defined herein, is required for off-street parking lot areas where the perimeter buffer does not already include one. The height shall be measured from the top of the adjacent parking surface, and if planted on a berm, the berm height can be included towards the minimum height.

B. *Internal parking lot landscaping.* Internal parking lot landscaping shall comprise an area equal to a minimum of ten percent of the vehicular use area excluding those areas beneath vehicular canopies, such as a bank drive-thru or a convenience store with gas pumps. The vehicular use area is the total area of all parking stalls, drive aisles, and access ways within the limits of the property being developed. Sites zoned industrial can exclude vehicular use areas designated for heavy-duty truck parking, loading, and maneuvering from these calculations.

1. *Landscape islands.*
   a. A qualifying island or planting area shall contain at least one tree per landscaped island. Shade trees shall only be planted in islands having at least nine feet in width and at least 300 square feet of island area per tree, except for median islands described in Section 11.03.04.B.2.a.(1).
   b. Required islands shall be a minimum of 150 square feet in area and shall have one understory tree unless the island is large enough for a shade tree, or a grouping of three palms.
2. *Placement of landscape islands.*
   a. No more than five consecutive parallel parking spaces may be constructed without separation by a vehicular use area landscape island, and no more than ten consecutive parking spaces may be constructed without separation by a landscape island, except as specified below:
      (1) Where shade trees are planted at a minimum of 50 feet on-center the length of a center island located between two rows of parking spaces ("median island"), the median island shall have a minimum planting width of eight feet. If understory trees

or a cluster of three palm trees are planted instead, the median island shall have a minimum width of five feet with the understory trees or clusters of three palms spaced a minimum of 30 feet on-center.

(2) Where a minimum of an additional five feet of buffer width is provided, in addition to any required perimeter buffer width, along the outside edge of the parking lot adjacent to the parking spaces, with shade trees planted at a minimum of 50 feet on-center.

b. If stabilized grass parking is approved, the parking spaces shall be delineated with parking stops and the required vehicular use area islands shall be provided.

c. All parking rows ending adjacent to drive or parking aisles shall be terminated by a landscape island ("terminal island") that is at least five feet in width.

3. *Design requirements for landscape islands.*

a. Where light poles or flagpoles are placed in landscape islands that contain shade trees, the minimum size of those landscape islands shall be increased by 150 square feet, and the pole shall be located at least 15 feet from the shade tree.

b. Curbing shall be installed around the perimeter of all landscape islands that abut paved parking or drive aisles. Where the landscape islands abut stabilized grass parking, pressure-treated timbers (minimum size of six inches by six inches), securely attached with rebar to the ground, are allowed in lieu of the curbs. Curbing or areas beneath the pressure-treated timbers shall not be counted towards the landscape island areas.

c. The Land Use Administrator may supersede specific landscaping standards in this subsection when they conflict with concerns expressed by the Fire Department or utility providers regarding public safety.

d. Landscape islands shall have at least one tree credit for every 165 square feet of required internal parking lot landscape areas; with understory trees receiving one tree credit, clusters of three palm trees receiving 1½ tree credits, and shade trees receiving two tree credits.

4. *Alternate planting requirements for parking lot islands.* The following specific planting requirements relate to internal parking lots:

a. In lieu of providing the minimum open space in a parking lot island, the Land Use Administrator may approve one or more of the following practices:

(1) Structural soils;

(2) Structural bridging under sub-base and pavement areas;

(3) Soil trenches/root paths that allow roots to access larger soil areas; or

(4) Other methodology, such as pervious pavers, that provide adequate means for tree roots to properly grow.

b. Upon submittal and approval of design plans and specifications of an alternate means of rooting area under a paved surface, the minimum parking lot island planting area as required in this section may be reduced. Structural soil specifications shall comply with City standards.

5. *Driveway medians.* A landscaped island ("driveway median") may be installed to separate the ingress and egress driveways of an access way. This driveway median shall meet the planting and design requirements for landscape islands.

6. *Flexibility.*

a. The Land Use Administrator may permit the use of architectural planters to provide partial credit towards landscape island/area requirements, if found to be of equivalent public benefit and where no other practical options exist.

b. The Land Use Administrator may permit more than ten contiguous parking spaces without an island in order to promote tree preservation or when unique site circumstances exist, such as redevelopment.

c. The Land Use Administrator may reduce the minimum area for parking lot islands if it is determined adequate tree rooting area is provided below the pavement area, per the City Technical Manual.

7. *Related standards.*

a. For large scale commercial centers, see Sections 4.15.03.B. and 4.15.03.C.

b. For screening of mechanical equipment, utilities and storage areas, see Section 13.04.07.A.

11.03.05. *Landscape buffer requirements.*

A. *Buffer type determination.* Determining perimeter buffer requirements for a site consists of a two-step process:

1. Use Table 11-5 to determine the type of buffer required.

2. Use Table 11-6 to find the design standards for the particular buffer required.

B. *Perimeter buffer requirements.* Table 11-5 shows the perimeter buffer types required based on the zoning of the subject property and the adjoining zoning/use. The zoning of the subject property is shown on the second row with the black background and the adjoining zoning/use is shown on the left-hand column. To use Table 11-5, go along the second row to find the subject property's zoning and then go down that column to where it aligns with the same row as the adjoining zoning/use. For example, if the proposed development is located on land zoned "IND-1" and the abutting land is zoned "MFR-1" then use the "IND" column at the right-hand side of the table and follow it down to the row labeled "MFR", which would require a perimeter buffer type "D", "E", or "F".

*Table 11-5: Perimeter Buffer Requirements*

| | **Zoning of Proposed Development** | | | | |
|---|---|---|---|---|---|
| | **AGR, PRS, P & G** | **SFR, DPX, EST** | **MFR, MHD** | **OFC, COM, MPD[1], PSP[2]** | **IND** |
| **Adjoining Zoning/Use (shown below):** | | | | | |
| AGR, PRS, P&G | None | None | None | None | None |
| SFR, DPX, EST | None | None | D, E or F | D, E or F | D, E or F |

| | | | | | |
|---|---|---|---|---|---|
| MFR, MHD | None | None | C | D, E or F | D, E or F |
| OFC, COM, MPD [1], PSP [2] | None | None | C | C | D, E, or F |
| IND | None | None | C | C | C |
| Non Specially Designated Roads | None | A | A | A | A |
| Specially Designated Segments Palm Coast Parkway, Palm Harbor Parkway and Colbert Lane [3] | None | B | B | B | B |
| Other Specially Designated Roads or Segments Thereof [4] | None | G | G | G | G |
| Retention Pond, Lake, or Canal | None | None | None | C | D, E or F |

[1] In the MPD zoning district the requirements shall revert to the underlying zoning district or use for the subject property, as described within the MPD Agreement.
[2] Requirements in the PSP zoning district shall revert to the existing or proposed use on the property, as determined by the Land Use Administrator.
[3] Segments are limited to Palm Coast Parkway east of I-95, Palm Harbor Parkway south of the Hammock Dunes Bridge, and Colbert Lane from the south right-of-way line of Palm Coast Parkway SE to 2,200 feet to the south.
[4] Other specially designated roads or segments thereof, include the following: Belle Terre Parkway, Belle Terre Boulevard, Colbert Lane (segment north of Palm Coast Parkway SE and segment more than 2200 feet south of Palm Coast Parkway SE), Cypress Point Parkway, 1-95, Matanzas Woods Parkway, Old Kings Road, Palm Coast Parkway (segment west of 1-95), Palm Harbor Parkway (segment north of the Hammock Dunes Bridge), Pine Lakes Parkway, Royal Palms Parkway, S.R. 100, Seminole Woods Parkway, U.S. 1, and White View Parkway.

[5]Land Use Administrator may determine additional buffer requirements may be allocated from other areas of less impactful buffer.

1. For nonresidential uses, a perimeter buffer will not be required between two or more newly created adjoining lot lines when subdividing a parcel of land that has an existing development or an approved site plan. (For example, two outparcels in front of a shopping center with an anchor tenant building.) In order to qualify, the existing or approved project and future developments on the proposed lots must have approval for a unified or master site plan that incorporates shared facilities including: access, stormwater facilities, and connectivity.
2. The double-frontage lots fronting along Palm Coast Parkway SE or Palm Coast Parkway NE and fronting along the City un-named right-of-way, located about 350 feet south of Palm Coast Parkway NE and extending east from Florida Park Drive to the Intracoastal Waterway, do not have to provide any buffers along the City un-named right-of-way.

C. *Buffer design standards.* The required buffers shall meet the following landscape standards:

*Table 11-6: Buffer Design Standards*

| Type | Width[1] | Shade Trees per Linear Feet | Maximum Shade Tree Spacing per Linear Feet | Understory Trees per Linear Feet | Short Screen or Tall Screen | Accent Planting per Linear Feet | Decorative Wall/Fence |
|---|---|---|---|---|---|---|---|
| A | 10' | 1/50' | 75' | 1/50' | Short Screen | N/A | N/A |
| B | 35' | 1/50' | 75' | 1/50' | Short Screen | 30/100' | N/A |
| C [2] | 10' | 1/50' | 75' | Optional | Short Screen [3] | N/A | N/A |
| D [2] | 10' | 1/50' | 75' | Optional | Not Required | 30/100' | Decorative Wall |
| E [2] | 20' | 1/50' | 75' | Optional | Tall Screen | N/A | Optional |
| F [2] | 15' | 1/50' | 75' | Optional | Not Required | 30/100' | Fence |
| G | 25' | 1/50' | 75' | 1/50' | Short Screen | 30/100' | N/A |

[1] A 35-foot Buffer B may be averaged with a minimum width of 25 feet and maximum width of 45 feet, and a 25' Buffer G may be averaged with a minimum width of 20 feet and a maximum width of 30 feet.
[2] Where an adjoining lot is undeveloped, shade tree spacing in the subject lot's adjoining buffer shall be increased to one per 75 linear feet and maximum spacing increased to 90 feet. Where an adjoining lot has been developed with an adjoining buffer having shade trees, the subject lot shall have understory trees planted that are staggered between the shade trees.
[3] Not required if the adjoining property has already been developed with the shrubs already planted, or where multi-family, office, or commercial uses are adjacent to any pond, lake, canal or waterway and the view would be an enhancement for the proposed project while not negatively impacting neighboring properties, as determined by the Land Use Administrator. Also, not required when industrial properties are adjacent to each other, except where a parking area is unscreened and adjacent to the buffer.

1. Landscape buffer areas shall be located at the perimeter of the site. Plantings shall not be located in any portion of a public or private right-of-way or drainage easement, unless permitted by a landscape easement. Short, medium and tall screen plantings may be located between the minimum landscape buffer area and the parking lot, building, structure or equipment they are intended to buffer. If not screening parking areas or other areas required to be screened, these screen plantings can be incorporated into the required foundation plantings.
2. At least 50 percent of the existing native vegetation shall be preserved within the landscape buffer area. Preserved native vegetation within the buffer shall be hand cleared of vines, debris, and dead branches to present an attractive transition from maintained to natural. If native vegetation is not present, is insufficient to meet the screening required by this section, or the Land Use Administrator has determined that it must be removed due to required site grading or existing utilities, then plant material shall be installed to meet the buffer requirement.

3. When calculating the required number of trees and shrubs within a buffer, the width of access ways or easements running perpendicular to the buffer shall be subtracted from the property length.

4. Understory trees may be used in lieu of shade trees where noted in Table 11-6 as "Optional"; however, no more than 25 percent of the required trees may be understory trees. Unless limited by utility easement, then shade trees may be permitted at maximum required percentage as determined by Land Use Administrator.

5. Where accent plants are required, no more than 30 percent of the planting bed area shall be comprised of groundcover plants.

6. Uses within buffers:

   a. Buffer yards shall be limited to passive recreation and may contain pedestrian or bicycle trails and public amenities such as decorative fountains, artwork, and similar structures.

   b. Mechanical equipment or structures, directional signs, and backflow preventers may be allowed in perimeter buffer areas pursuant to approval by the Land Use Administrator.

   c. In a buffer ten feet or less in width, none of the required buffer area may be used for stormwater retention/detention. In a buffer 15 feet in width, no more than 33 percent of the required buffer area may be used for stormwater retention/detention. In a buffer 20 feet or more in width, no more than 50 percent of the required buffer area may be used for stormwater retention/detention. These ratios shall be reduced if insufficient room is left for plantings.

   d. A required buffer shall be at least 15 feet wide before it can be encumbered by the partial overlap of a sidewalk or utility easement running parallel to the buffer, and the overlap shall not exceed one-third of the required buffer width. This ratio may be reduced if stormwater retention/detention areas are also in the buffer or if there is insufficient room for plantings.

7. Decorative walls and fences, when required, shall be six feet in height and comply with the material and design requirements (see Section 4.01 for material and design requirements for walls and fences).

D. *Miscellaneous buffer requirements.*

1. *Vehicle display areas.* For automotive, recreational vehicles, motorcycles, motorized watercrafts, and other similar displays, a maximum of 33 percent of the frontage short screen plantings may be reduced to a height of 12 inches at time of planting if a minimum height of 16 inches shall be achieved within two years and maintained at such height. The balance of the short screen planting shall be installed and maintained per the height standards in Table 11-4.

2. *Frontage road buffers.* Frontage roads that parallel the main road serving a site may encroach into a front landscape buffer if no less than ten feet of the required buffer is provided on the development side of the frontage road with the remaining footage of the buffer width on the side of the main road.

3. *Fleet rental parking buffers.* Fleet rental parking spaces (excluding spaces limited to the renting of automobiles or pickup trucks) shall be located to the side or rear of the building and screened with a tall screen planting.

4. *Phased projects.* Any development that proposes phasing shall be required to provide perimeter buffer plantings adjacent to existing development and rights-of-way that are visible to the general public. If existing trees and vegetation are sufficient to provide this buffer, they

may be used to satisfy this requirement. The certificate of occupancy for the initial phase shall not be issued until the buffer plantings have been provided.

11.03.06. *Irrigation requirements.*

A. *Requirements by type of development.*

1. *MFR/COM, IND:* These developments shall meet the irrigation design standards contained in this section.

2. *SUBD:* Irrigation systems for all common areas of a subdivision, including planted medians, shall be designed and installed with the subdivision infrastructure in accordance with this section. If the owner elects, the planting and irrigation of street trees on individual lots may be postponed until the lot is developed.

B. *Design standards.* Irrigation systems shall meet all City irrigation design standards as well as the following:

1. *Water conservation.* Irrigation systems shall be designed in such a way as to minimize runoff or spraying of irrigation water onto roadways, driveways, and adjacent properties that are not under the control of the owner. The irrigation systems shall be designed to locate plants into water use zones having the same irrigation needs.

2. *Water source.* Non-potable water use demands shall be met using water of the lowest quality supply that is both available and feasible for the intended application, as determined by the Land Use Administrator. Water reuse or water reclamation programs, if available, shall be used to reduce groundwater or surface water withdrawals for water use applications which do not require potable water. The following are the water source priorities of the City from highest preference to lowest preference:

   a. Reclaimed water.

   b. Stormwater, lake, or canal.

   c. Groundwater (well).

   d. Potable water.

3. *Temporary irrigation.* All landscape installations shall make necessary provisions for watering to establish and guarantee plant survival. Sites with these types of irrigation systems shall use super absorbents in the planting backfill as well as native plants or xeric plants and trees. A watering schedule shall be submitted. For an example, see the University of Florida Extension publication ENH856 - Tree Specifications for Planting and Shrubs in the Southeastern United States. Specifications shall be included to provide one of the following:

   a. Automatic irrigation;

   b. Hand watering via hose bib or other water source;

   c. Water truck hand watering; or

   d. Automated water bags.

4. *Irrigated areas.* The irrigation system, unless temporary, shall have mainlines and lateral lines buried underground and designed to provide adequate irrigation to all landscaped areas except for areas of existing native vegetation or planting areas comprised of vegetation that conserves water, is adaptable to local conditions, and is drought tolerant.

5. *Backflow prevention.* Irrigation systems connected to a potable water source shall have a backflow prevention assembly installed as required and approved by the Land Use

Administrator. Permitted wells shall have a serviceable double-check valve as required and approved by the Land Use Administrator. See Chapter 9 for these requirements.

6. *Moisture sensing device or smart irrigation system.* All irrigation systems shall have an operational moisture-sensing device or a smart irrigation system such as a rain detection device.

11.03.07. *Installation of plants.* All landscaping is to be installed in a professional manner following good nursery practices as set by the Florida Nurserymen Landscape and Growers Association. All planting requirements shall meet or exceed the standards set forth in this chapter and the University of Florida Extension Publication ENH856 - Tree Specifications for Planting Trees and Shrubs in the Southeastern United States.

A. *Mulching requirements.* All planting areas shall be mulched with a minimum of threewo inches and a maximum of four inches of mulching material. The type of mulching material is subject to approval by the Land Use Administrator.

B. *Turf.* See Section 11.03.03.B. for turf requirements and quality.

11.03.08. *Compliance with approved plans; maintenance.*

A. *Compliance with approved plans.* All required plantings as shown on the approved landscape plans must be completed prior to issuance of a certificate of occupancy.

B. *Maintenance.*

1. The owner is responsible for maintaining the approved landscaping on-site in a healthy condition indefinitely. All required plant material that dies, or becomes unhealthy and is not treatable, shall be replaced within 30 days. When any plants are replaced because they are dead, diseased, or destroyed by acts of nature, they should be of the same or similar species and meet the size standards of Table 11-4.

2. Pruning standards for all tree work done in the City shall follow American National Standards Institute (ANSI) A300, Part 1 "pruning standards" as well as ANSI Z133.1-2000 standards for safety.

   a. The owner, tenant and their agents including personnel and companies who provide the tree services shall be jointly and severally responsible for following these pruning specifications and for tree damage or loss. Trees shall not be topped (hat-racking), over-lifted (lions-tailing), shaped, or significantly pruned, but shall be allowed to grow to maturity and attain their natural form so that crown development is not inhibited. Trees may only be pruned to maintain good health and growth by removal of limbs that are dead, weak, insect or disease-infested, storm damaged, crowded, rubbing other limbs, low and interfering with pedestrians or vehicles, or to maintain safe distances from utility lines.

   b. For maintenance of commercial properties, including: office, medical, retail, and industrial uses; and multi-family projects of 25 units or more, tree pruning of branches one inch or larger and at a height of eight feet or more shall only be provided by or under the direct supervision of arborists certified by the International Society of Arboriculture within Florida. or by tree trimmers certified annually by the City.

3. Adequate provision shall be made, as approved by the Land Use Administrator, for the perpetual maintenance of common areas through covenants and restrictions or other means. These requirements can be achieved through either existing tree preservation (preferred) or by planting new trees. Buffer plantings shall be planted in common areas and not private lots, unless a landscape maintenance easement is granted with adequate perpetual maintenance assurances.

4. The owners are responsible for maintaining the approved irrigation system in an operable and efficient condition in perpetuity.

5. For developed lots and the improved portions of partially developed parcels, the owners are responsible for ongoing removal of all invasive plant species, as determined by the Florida Department of Agriculture and Consumer Services "Noxious Weeds" rule set forth in the Florida Administrative Code.

6. The City may conduct periodic inspections to assure compliance with the planting and maintenance requirements of this section. If a violation is found the City will notify the owner that they have 30 days in which to replace plants and make any other necessary repairs. Continued violation after the 30 days will be referred to the Code Enforcement Board or another enforcement mechanism will be used.

11.03.09. *Construction phase/acceptance of improvements.*

A. *Construction phase.*

1. *Permit.* No site work shall commence until appropriate tree protection and erosion control measures are in place and approved by the Land Use Administrator.

2. *Pre-construction meeting.* Prior to any site clearing on MFR, COM, IND, and SUBD developments, all trees and areas with shrubs to remain shall be properly marked and barricaded as indicated in this Chapter. A pre-construction conference shall be scheduled with the general contractor, land clearing contractor or its designee, and City staff to review specific criteria for construction.

3. *Erosion control.* Best management practices shall be utilized.

B. *Acceptance of improvements.*

1. *Certificate of occupancy.* No certificate of occupancy may be issued until all specifications on the approved plan have been attained unless the Land Use Administrator determines that an extension of up to sixty (60) days is warranted and the required landscape and irrigation are covered by a surety given to the City on a form provided by the City, in the amount of one hundred fifty (150) percent of the estimated value of the unfinished work.

2. *As-built drawings.* Landscape and irrigation as-built drawings (as-builts) are required prior to the certificate of occupancy of the project being issued in any zoning district except for SFR, DPX, and EST. The irrigation as-builts provided to the City for future reference shall include certification via signed and sealed plans by a landscape architect for location of water source, rain sensor, valves, clocks, and heads. The purpose of the irrigation as-built drawings is to provide reasonable assurance that the irrigation system is installed in accordance with City approved irrigation plans. Approximate underground pipe run locations will be acceptable in lieu of exact locations. As-builts may be bonded according to the procedure as noted in Section 11.03.09.B.1.

( Ord. No. 2016-6 , § 2, 11-1-16)

Sec. 11.04. - Enforcement/Remediation and Penalties.

11.04.01. *Cease and desist orders.* The Land Use Administrator may issue a cease and desist order for a maximum of two working days whenever a violation of this subpart has occurred. Upon review of the violation, the Land Use Administrator may extend the cease and desist order until the violation is brought into compliance and all resulting fines incurred as a result of the violation are paid.

11.04.02. *Correction of violation/remediation.* The City shall take the following actions when a violation of this chapter has occurred in addition to all other available code enforcement remedies:

A. *Tree replacement remediation requirements*. Each tree destroyed or significantly damaged contrary to the latest ANSI A-300, Part I standards, including removal or effective removal, shall be replaced on SFR/DPX properties pursuant to Table 11-4 by a desirable type of tree; and on MFR/COM and IND properties only, the total diameter inches of the protected trees removed shall be replaced with a minimum replacement tree size of six-inch caliper. On MFR/COM and IND properties a mitigation plan consistent with this Chapter must be submitted to the City for review. This plan may require, in part, contribution to the tree bank fund. If contribution is to be made into the tree bank fund, the monetary equivalent amount of such contribution shall be determined pursuant to Subsection 11.02.07. The mitigation plan shall also require mitigation of any other damage to the property. Each tree so damaged or removed shall be considered a separate violation of this LDC.

B. *Sites cleared without approved tree surveys.* If the site has been cleared and the trees have been removed from the site such that the Land Use Administrator is unable to determine with reasonable certainty the number of protected trees removed in violation of this subpart, the violation may be corrected or partially corrected by paying into the tree replacement fund. The Land Use Administrator will determine the appropriateness and numbers of tree replacements to be planted back on the lot upon inspection. No work shall continue until the tree replanting plan has been approved. The contributions assessed under this subsection shall be payable to the City within ten working days after assessment. All replanting shall be required to be irrigated.

C. *Clearing without construction/inspections.* Permitted projects which are cleared, and upon which construction and inspection has not occurred within six months of clearing, shall be subject to mitigation per Table 11-2, as well as stabilization of all disturbed areas with sod or seed. In areas where a tree survey was accomplished, all protected trees on the survey shall be mitigated, and in areas where trees were not surveyed, the fine established by the City shall apply. Additionally, all perimeter buffer plantings, as shown on the approved plans, shall be installed and irrigated. Trees used in these buffers shall be credited towards the mitigation requirements.

11.04.03. *Appeals.* Any person aggrieved by an administrative order of the Land Use Administrator may appeal the order to the Planning and Land Development Regulation Board in accordance with requirements in Chapter 2.

( Ord. No. 2016-6 , § 2, 11-1-16)

## Sec. 13.01. - Purpose and Applicability.

13.01.01. *Purpose.* The purpose of this chapter is to create and maintain a positive community image and identity by requiring architectural treatments that enhance the visual appearance and character of the City.

13.01.02. *Intent.* This chapter is intended to supplement City development regulations with specific design requirements that result in quality architecture, which emphasize pedestrian scale and recognize local character.

13.01.03. *Applicability.* The provisions of this chapter apply to new development and construction, redevelopment and alterations to existing buildings in the City. In addition, stricter requirements are provided for the Gateway Overlay Zone and the Palm Coast Parkway Overlay Zone, as set forth in Chapters 3 and 4.

A. Mobile homes that bear a Department of Housing and Urban Development seal are not subject to the architectural design regulations contained in this chapter.

B. Manufactured dwellings and mobile homes that bear a Florida Department of Community Affairs seal shall meet the design regulations as residential uses.

## Sec. 13.02. - General Requirements.

The following architectural design requirements shall apply to all new development and construction, redevelopment, and alterations to existing structures within the City. Alterations shall include any change, addition, or modification including, but not limited to, repainting, that affects any of the elements governed by these architectural design criteria.

13.02.01. *Architectural styles.* The City has identified several recognized architectural styles for the design of buildings within the City. One of the following styles shall be used in the design of a nonresidential building. Applicable styles include Spanish Mission, Mediterranean, Italianate, Colonial, Neoclassical, Greek Revival, Modern, Craftsman, and Florida Vernacular.

13.02.02. *Green building.* Green building principles related to energy efficiency, resource protection, and environmental protection (e.g. reusable building materials, light colored roof materials, living roofs to treat stormwater, etc.) set forth by agencies such as, but not limited to, the United States Green Building Council and similar agencies are encouraged.

13.02.03. *Coastal building visual relief.* Buildings within 300 feet of the Intracoastal Waterway shoreline shall be oriented to provide one foot of unobstructed view from the right of way to the waterfront for each three feet of view obstructed by the building.

13.02.04. *Garages.* Garages that are detached from the principal structure shall be designed and constructed so that the roof and exterior walls of the garage are of similar architecture, materials, and colors as the exterior of the principal structure.

13.02.05. *Accessory structures.* The roof, exterior walls, and exterior colors of accessory structures, excluding prefabricated sheds, shall be compatible with the design of the principal structure. Accessory structures must meet the requirements as set forth in Chapters 3 and 4.

13.02.06. *Exterior colors*. Colors of walls, roofing, and accents such as trim and doors, shall be coordinated to achieve a visually and aesthetically positive effect consistent with sound and generally accepted land development principles and practices. While varieties of natural and painted colors are permitted, certain color principles shall be followed. The range of roofing materials and colors allowed for residential and nonresidential uses shall be as described in this section.

A. Exceptions.

1. The exterior colors of all residential, multi-family and nonresidential buildings shall be regulated according to this section with the exception of properties zoned MPD which are exempt from Subsection 13.02.06.B.1.

2. Unpainted natural stone, brick, roof material or natural appearing substitutes are excluded from exterior color requirements.

3. Garage doors that are not painted but are a varnished or stained natural wood with natural wood colors and visible wood grain, or other garage door materials similar in appearance and color of natural wood garage doors with wood-like texturing and visible wood grain surfacing, are excluded from Subsection 13.02.06.B.1.

4. Front entry doors are excluded from the exterior color requirements Section 13.02.06 except for Subsection B.3., prohibited colors.

B. Measurement of color. Multi-family and nonresidential building walls or garage door colors, excluding accent colors shall be determined using the Light Reflectance Value (LRV) index or an equivalent methodology.

1. Wall or garage door colors.

a. Light pastel colors and white. Acceptable light pastel colors and white shall have LRV of 80 or greater.

b. Earth tones. Earth tones include shades of brown, brown-taupe or sandy-taupe, beige, terra cotta, olive, sage and gray. Acceptable earth tone shades shall have a LRV of 25 or greater.

c. Garage doors shall be pastel or earth tone colors. However, earth tones colors may have a LRV less than 80, and may include black.

2. Accent colors for residential, muti-family and nonresidential.

a. Accent colors are all colors except prohibited colors as stated in Subsection B.3. of this section.

b. Accent colors shall only be applied to architectural elements except garage doors. Architectural elements may include but are not limited to, doors, shutters, keystones, quoins, awnings, window trims, door frames, window sills, cornices, and banding.

c. Accent colors shall not exceed 20 percent of any one elevation.

3. Prohibited colors.

a. Fluorescent colors shall be prohibited on all exterior surfaces. Neon lighting is not included within the term "fluorescent."

b. Residential and multi-family are prohibited from using any shade of purple, fuchsia, magenta, and orange that does not meet the pastel requirements of Subsection 13.02.06.B.1a.

4. Colors without a LRV. If the LRV of a color sample is not available, the Land Use Administrator shall compare the color sample to a color chip with a known LRV and determine whether the sample is lighter, darker, or equivalent LRV.

C. Building color combination.

1. Wall color combinations.

a. For residential buildings, one color shall be selected for the main surface of the building, and a compatible second wall color may be used for recessed front entryway walls.

b. Multi-family and non-residential buildings may vary wall color vertically between building masses, horizontally between stories, or a combination thereof, but no more than three colors can be used per building.

2. Accent color combinations. Accent colors should offer some contrast, and can therefore be darker, lighter, brighter, or richer than wall colors. However, the main consideration in choosing accent colors shall be compatibility with the wall color. Two accent colors shall be allowed per building. Accent colors shall complement the building's wall color.

D. Roof color. Roof color shall be compatible with the selected wall color. Roofs may be in the color of natural roofing materials (such as slate or clay) or may be finished in shades of gray, galvanized silver, copper, brown, green, red, black, blue, or white, except that a roof made of copper may be left in its natural color. Lighter colored roof materials, such as white or allowable galvanized metal, are strongly recommended for energy efficiency purposes.

E. Faux building features. It is prohibited to paint faux features or elements of a structure such as, but not limited to, windows, doors, shutters, or flower boxes.

F. Repainting.

a. When repairs are being made to the building's exterior wall surface, the wall may either be repainted in the same color or the building shall be painted in compliance with the LDC.

b. When repainting any portion of the building's exterior, the building shall either be painted in the same color or the building shall be painted in compliance with the LDC.

13.02.07. *Exterior material/finishes.*

A. *Exterior walls.* Exterior wall finish materials shall include stucco, stone, natural brick, finished concrete, split-faced block, wood, or other material including, but not limited to, synthetic materials similar in appearance and durability to those previously named. Finishes of exposed concrete block or corrugated metal are prohibited except metal may be allowed only in industrial zoning if it is not visible from the right of way and adjacent properties as determined by Land Use Administrator, and at minimum the building is set back 200 ft from the right of way.

B. *Roofs.* Roof material visible from the ground shall consist of concrete, slate, or clay tiles, asphalt fiberglass shingles, composite shingles, or metal standing seam, classic rib metal, Photovoltaic roofing materials. Residential uses may also have cedar shake wood. Screen room roofs shall have the same material and color as the primary structure or may use 3" insulated composite roofing. Pan roofing and corrugated plastic roofing materials are prohibited. To allow for the introduction of new roofing materials of similar quality and appearance, the Land Use Administrator may maintain a supplementary list of acceptable roofing materials.

(Ord. No. 2013-9, § 2, 11-19-13)

Sec. 13.03. - Single-Family and Duplex Residential Architectural Requirements.

This section shall apply to all single-family and duplex residential dwelling units.

13.03.01. *Architectural styles.*

A. Duplex residential dwelling units shall have the same architectural ~~-~~style~~design~~, materials, and colors for both sides. Duplex residential dwelling units do not have to be symmetrical.

B. Within residential developments, an identical house can only repeat every four lots when fronting the same right-of-way including both sides of the street. However, two nonidentical houses of the same style may be built adjacent to each other. To be considered nonidentical, the two houses should be distinguishable in ways such as reverse orientation plans, tile and shingle roof, articulation changes (different articulations, use banding on one and shutters on the other, etc.), Façade design change which is a structural change. (Different massing, change window location, change entranceway design, change roof line design etc.), or architectural equivalent.

13.03.02. *Roofs.* Roofs that are visible from the public right-of-way shall be of shed, hip, gambrel, mansard, or gable styles. Roof height, bulk, and mass must appear structural even when the design is nonstructural. The following requirements shall apply:

A. *Pitched roofs.*

1. All single-family and duplex buildings shall have a pitched roof covering a minimum of 65 percent of the overall floor area under the roof.

2. Pitched roofs shall have a minimum slope of 5:12 (5~~five~~ inches vertical rise for every 12 inches horizontal run) and shall have an overhang beyond the building wall; however, the overhang shall not encroach into an easement.

3. Flat roofed areas including, but not limited to, porches are permissible in the remaining 35 percent of floor area under roof.

B. *Flat roofs.*

1. Porches or screen rooms may have flat roofs where allowed. Screen rooms are only permitted at the rear of the home.

2. Flat roofs shall be reviewed by the Land Use Administrator for architectural and aesthetic design and impact on the surrounding area.

3. Flat roofs shall be located at the rear of the building out of view from the public right-of-way. On saltwater canals, flat roofs must match the roof of the primary structure (color and material) unless they are located between a screen enclosure and the residence. Matching shingles or modified bitumen rolled roofing with granules that resemble shingles are permissible.

13.03.03. *Facade design.*

A. *Massing requirement.* Building massing shall be implemented by use of techniques that reduce the appearance of high building density or bulk. At least one massing treatment, in addition to the articulation requirement, shall be included for each 50 linear feet of wall that exceeds 50 feet in length.

B. *Articulation.* Facade articulation is required to add interest to a building. The following features shall be acceptable techniques of exterior articulation:

1. A base course or plinth course; banding, moldings, or stringcourses; quoins; oriels; cornices; arches; balconies; brackets; shutters; keystones; dormers; louvers as part of the exterior wall construction.

2. Quoins and banding shall wrap around the corners of the structure for at least two feet.

3. Banding placed around the windows and doors visible from the right-of-way, golf course, canals, lakes, or other similar highly visible areas. Window shutters may substitute for banding.

4. Horizontal banding continuing the length of the wall that faces a street, golf course, saltwater canal, or other similar highly visible areas.

C. *Fenestration.*

1. Windowless exterior walls, excluding garage doors, that face a public right-of-way, golf course, canals, lakes, or other similar highly visible areas are prohibited.

2. All single-family residences shall have only one entry door on the designated primary front façade and all single families shall have only one primary front façade. ~~Reserved~~.

3. Windows shall be consistent with the architectural style of the building and proportionate in size and placement relative to the overall façade composition.~~Windows shall be in harmony with and proportionate to the rest of the structure.~~

4. The use of reflective glass on residential structures is prohibited. Reflective glass will be defined as having a visible light reflectance rating of 15 percent or greater.

D. *Shutters.* Shutters function as an accent to windows as well as weather protection.

1. *Accent shutters.* Accent shutters are designed as a visual detail for windows.

a. Accent shutters shall be a contrasting color to the wall color.

b. Shutters shall match the height of the window.

c. Acceptable types of accent shutters include traditional horizontal slat or panel type shutters. Professional scoring or etching of a stucco wall to give the appearance of shutters is also acceptable.

2. *Weather protection shutters.* Professionally installed Bahaman, Accordion, ~~and~~ Roll-Down, Clear Guard Panels, and Armor Screen Hurricane Protection ~~Down~~ shutters and similar approved products subject to Land Use Administrator~~, as well as clear guard panels~~, used as weather protection shall maintain the architectural character when residences are boarded up. Plywood shall not be considered a weather shutter except for 168 hours (7 Days) before storm force winds are predicted to reach Palm Coast and 168 hours (7 Days) after a storm force wind are predicted to pass Palm Coast. Duct tape shall not be an acceptable method of shutter fastening. Storm shutters can be used one month prior to the hurricane season through one month after the hurricane season.

E. *Awnings.* If used, awnings shall complement the architectural style and colors of the residence. Awnings may be placed above windows and doors. Placing any awning on residential garage doors is prohibited. Permitted awnings shall be constructed from canvas, matte finish vinyl, copper, wood, or a material that the Land Use Administrator deems appropriate with regard to the architectural style.

1. *Prohibited materials.* Plastic, shiny vinyl, Plexiglas, corrugated metal, or materials resembling plastic are prohibited.

2. *Illumination.* Backlit awnings shall be prohibited.

13.03.04. *Mechanical equipment.* Mechanical equipment such as, but not limited to, air conditioning units, pool pumps, generators, back flow preventers, and gas tanks shall be screened from view of the

public right-of-way and access easements with landscaping and/or fencing in compliance with City regulations.

13.03.05. *Manufactured dwellings and mobile homes bearing a Florida Department of Community Affairs Seal.* Manufactured dwellings and mobile homes that bear a Florida Department of Community Affairs Seal shall comply with the regulations for single-family residential and duplex architectural design. In addition, they shall meet the following:

A. A continuous perimeter stemwall foundation or monolithic foundation floor slab system that meets all criteria of the Florida Standard Building Code, shall be provided. Exterior walls of these dwellings shall bear directly on the foundation. Isolated elevated pier foundations are prohibited. Interior load-bearing foundations and/or walls shall be continuous.

B. The electrical service entrance shall be located on the dwelling.

C. The exterior face of all stemwall foundations and/or monolithic design shall be architecturally finished with Portland cement stucco, brick, stone, siding materials, or other durable material approved by the Land Use Administrator.

D. The main entranceway shall be covered with a roof structure. The roof structure shall be consistent with the roof structure of the principal dwelling and shall cover, at a minimum, the required exterior landing at the door. The entry roof structure may be an extension of the main roof system or a separate roof system that matches the main roof slope, materials, and architectural style. If separate, the roof structure shall be consistent with the principal dwelling.

(Ord. No. 2009-26, §§ 93—96, 12-15-09)

Sec. 13.04. – Multifamily and Nonresidential[1] Architectural Requirements.

1. Industrial uses are located in section 13.05.

The requirements contained in this section apply to all multifamily and nonresidential development excluding Industrial.

13.04.01. *Corporate trademark design.* Exceptions to the requirements contained within this chapter shall not be made for corporate franchises.

13.04.02. *Building architecture.* Building enhancements are required and shall be achieved through the use of the following:

A. *Building massing.* Massing refers to the two-dimensional shape or three-dimensional volume of a building. Attention to massing is especially important for large buildings whose bulk can be out of scale with their surroundings; or whose walls or roof lines may be uninterrupted, excessively long or high, or monotonous. Multifamily and nonresidential developments shall provide building massing and articulation as follows:

1. *Massing requirements.* Building massing shall be implemented by use of techniques that reduce the appearance of high building density or bulk. At least one massing treatment, in addition to the articulation requirement, shall be included for each 50 linear feet of wall that exceeds 50 feet in length.

2. *Massing techniques.* The use of the following building features, when more than three feet in depth or height, shall qualify as techniques that improve building massing. Other massing techniques may be used, as approved by the Land Use Administrator:

a. Balconies.

b. Building wall offsets.

c. Colonnades.

d. Cupolas.

e. Towers.

f. Pavilions.

g. Arcades.

h. Porticos.

i. Projections and recessed sections.

j. Clock or bell towers.

k. Variations in the height of the roof line.

l. Verandas.

m. Overhangs.

3. *Multifamily buildings.* Large multifamily and townhome building volumes shall be broken into smaller parts to avoid a massive appearance and to allow for ventilation and vistas. In addition to the massing requirement noted above, facades of multifamily developments shall not extend for more than 100 horizontal feet without a major volume shift or a substantial break in volume.

B. *Exterior articulation.* Articulation of exterior walls is required to add interest and a distinctive sense of place to a building. The following features qualify as techniques of building articulation:

1. *Articulation requirements.* All facades shall include, in addition to the massing requirement, at least one articulation from the list below on each facade. Facades extending for more than 50 horizontal or vertical feet shall provide at least two exterior treatments.

2. *Prohibited articulation techniques.* Professional scoring or etching of a stucco wall to give the appearance of shutters, doors, or windows shall be prohibited.

3. *Articulation techniques.* The use of the following elements shall qualify as articulation techniques:

a. Base course or plinth course.

b. Portals.

c. Windows.

d. Transoms.

e. Show cases.

f. Bay windows and oriels.

g. Lintels.

h. String courses and moldings.

i. Fascia.

j. Cornice.

k. Piers.

l. Arches.

m. Bays.

n. Balconies.

o. Brackets.

p. Wings.

q. Porches.

r. Stoops.

s. Corbel

C. *Fenestration.*

1. Windowless exterior walls that face a public right-of-way are prohibited.

2. For multistory commercial uses, at minimum 50 percent of the wall facade on the first floor story shall have windows. ~~The windows shall be placed between three feet and seven feet from the ground.~~

3. For office and multifamily uses, at minimum 15 percent of the wall façade per story shall have windows.

4. Windows shall be consistent with the architectural style of the building and proportionate in size and placement relative to the overall façade composition ~~Windows shall be in harmony with and proportionate to the rest of the structure.~~

5. The use of darkly tinted or reflective glass on the first floor of commercial structures is prohibited. Reflective glass will be defined as having a visible light reflectance rating of 15 percent or greater and darkly tinted glass windows include glass with a visible light transmittance rating of 35 or less. The use of low-emissivity (Low-E) glass is encouraged, but must demonstrate that the reflectance and transmittance requirements are met. All plans submitted to the City shall include the glass manufacturer's visible light reflectance, visible light transmittance ratings and Low-E glass specifications for evaluation. Privacy can be achieved through the use of blinds and curtains.

6. Uses such as movie theaters, bowling alleys, skating rinks, industrial facilities, warehouses, and similar uses are exempt from the fenestration requirements. The building façades shall provide additional architectural elements in lieu of windows at the same percentages of Subsection 13.04.02.C.2.

13.04.03. *Roofs.* The following types of roofs are permitted:

A. *Pitched roofs.*

1. A pitched roof shall have a minimum slope of 5:12 (5" vertical rise for every 12" horizontal run) and shall have a minimum overhang of two feet beyond the building wall. Flat roofed areas including porches, are permissible in the remaining 35 percent of floor area under roof.

2. Pitched roofs shall be enhanced by the addition of dormers, belvederes, chimneys, cupolas, clock towers and similar elements. Enhancements shall be consistent with the main elements of the building.

B. *Mansard style roof.* False mansards are prohibited.

C. *Flat roofs.* Buildings that have a flat roof shall be hidden from public view by a parapet and decorated by a cornice.

1. *Parapet.* The highest point of a parapet shall not at any point exceed 20~~15~~ percent of the height of the supporting wall.

2. *Cornice.* Cornices may be simple or mixed (straight and curved moldings), but should not exceed 24 inches in depth. Cornices shall have a minimum of 12 inches in height, and a minimum of three vertical (not diagonal) changes in plane, and a variety of thicknesses in relief ranging from the greatest at the top to the least at the bottom.

D. *Canopy roofs.* Canopy roofs for gas stations, drive-through restaurants, and banks are exempt from the pitched roof requirements.

13.04.04. *Building entrances.* All buildings are subject to the following regulations:

A. *Entrance placement.* The main building entrance shall face the public right-of-way unless it is determined by the Land Use Administrator that such configuration is not practicable. When parking is located on the side or rear of the building, the placement of a suitably large building entrance that faces the parking area shall complement, but not displace the main building entrance.

B. *Entrance articulation.* Main building entrances shall be articulated in a manner consistent with the architectural style of the building. All buildings shall have a minimum of one of the following architectural treatments, separate from the massing and articulation requirements, for each main building entrance: lintels, pediments, pilasters, columns, porticos, porches, overhangs, railings, balustrades, and features consistent with the building style.

13.04.05. *Awnings.* Awnings shall complement the architectural style and colors of the building. Awnings may be placed above windows and doors and are subject to the following requirements:

A. *Height.* A minimum clearance of eight feet shall be maintained between the sidewalk and the lowest part of the awning.

B. *Prohibited materials.* Plastic (or materials resembling plastic), shiny vinyl, and Plexiglas are prohibited.

C. *Illumination.* Backlit awnings are prohibited.

13.04.06. *Light fixtures.* Light fixtures attached to the exterior of a building shall be architecturally compatible with the style, materials, colors, and details of the building.

13.04.07. *Mechanical equipment, utilities, and storage areas.*

A. *Mechanical equipment.* When visible or audible from adjacent property or from the public right-of-way, mechanical equipment shall be screened by walls, fencing, roof elements, or landscaping. Screening shall be extended at least one foot above the equipment being screened. Ground-mounted mechanical equipment shall be located within 20 feet of the principal structure, except transformers.

B. *Service, utility, display, and storage areas.*

1. Loading areas or docks, outdoor storage, waste disposal, mechanical equipment, satellite dishes, truck parking, and other service support equipment shall be located behind the building line and shall be fully screened from the view of adjacent properties both at ground and rooftop levels by walls made of masonry, brick, or durable man-made materials.

2. Utility boxes must be totally screened from view of principal streets, as well as pedestrian areas and walkways. Backflow preventers shall be landscaped.

3. Areas for outdoor storage, trash collection, and loading shall be incorporated into the primary building design, and construction materials for these areas shall be of comparable quality and appearance as that of the primary building.

4. Shopping cart storage shall be located inside the building. Cart corrals used by patrons shall be screened by a solid landscaping hedge or wall consistent with the building architecture and materials.

## 13.05 Industrial

The requirements contained in this section apply to only Industrial zoning districts

13.05.01. *Corporate trademark design.* Exceptions to the requirements contained within this chapter shall not be made for corporate franchises.

13.05.02. *Building architecture.* Building enhancements are required and shall be achieved through the use of the following:

A. *Building massing.* Massing refers to the two-dimensional shape or three-dimensional volume of a building. Attention to massing is especially important for large buildings whose bulk can be out of scale with their surroundings; or whose walls or roof lines may be uninterrupted, excessively long or high, or monotonous. Industrial buildings shall provide building massing and articulation as follows:

1. *Massing requirements.* Building massing shall be implemented by use of techniques that reduce the appearance of high building density or bulk. At least one massing treatment, in addition to the articulation requirement, shall be included for each 50 linear feet of wall that exceeds 50 feet in length.

2. *Massing techniques.* The use of the following building features, when more than three feet in depth or height, shall qualify as techniques that improve building massing. Other massing techniques may be used, as approved by the Land Use Administrator:

a. Balconies.

b. Building wall offsets.

c. Colonnades.

d. Cupolas.

e. Towers.

f. Pavilions.

g. Arcades.

h. Porticos.

i. Projections and recessed sections.

j. Clock or bell towers.

k. Variations in the height of the roof line.

l. Verandas.

m. Overhangs.

3. Uses such as industrial facilities, warehouses, and similar uses are exempt from the massing techniques if the building is not visible from the right of way as determined by the land use administrator.

B. *Exterior articulation.* Articulation of exterior walls is required to add interest and a distinctive sense of place to a building. The following features qualify as techniques of building articulation:

1. *Articulation requirements.* All facades shall include, in addition to the massing requirement, at least one articulation from the list below on each facade. Facades extending for more than 50 horizontal or vertical feet shall provide at least two exterior treatments.

2. *Prohibited articulation techniques.* Professional scoring or etching of a stucco wall to give the appearance of shutters, doors, or windows shall be prohibited.

3. *Articulation techniques.* The use of the following elements shall qualify as articulation techniques:

   a. Base course or plinth course.

   b. Portals.

   c. Windows.

   d. Transoms.

   e. Show cases.

   f. Bay windows and oriels.

   g. Lintels.

   h. String courses and moldings.

   i. Fascia.

   j. Cornice.

   k. Piers.

   l. Arches.

   m. Bays.

   n. Balconies.

   o. Brackets.

   p. Wings.

   q. Porches.

   r. Stoops.

C. *Fenestration.*

1. Windowless exterior walls that face a public right-of-way are prohibited.

2. For multistory industrial uses, at minimum 15 percent of the wall facade on the first floor story shall have windows.

3. Windows shall be consistent with the architectural style of the building and proportionate in size and placement relative to the overall façade composition

4. The use of darkly tinted or reflective glass on the first floor of commercial structures is prohibited. Reflective glass will be defined as having a visible light reflectance rating of 15 percent or greater and darkly tinted glass windows include glass with a visible light transmittance rating of 35 or less. The use of low-emissivity (Low-E) glass is

encouraged but must demonstrate that the reflectance and transmittance requirements are met. All plans submitted to the City shall include the glass manufacturer's visible light reflectance, visible light transmittance ratings and Low-E glass specifications for evaluation. Privacy can be achieved through the use of blinds and curtains.

5. Uses such as industrial facilities, warehouses, and similar uses are exempt from the fenestration if the building is not visible from the right of way as determined by the land use administrator. The building façades shall provide additional architectural elements in lieu of windows at the same percentages of Subsection 13.04.02.C.2.

13.05.03. *Roofs.* The following types of roofs are permitted:

A. *Pitched roofs.*

1. A pitched roof shall have a minimum slope of 2:12 (2" vertical rise for every 12" horizontal run) and shall have a minimum overhang of two feet beyond the building wall. Flat roofed areas including porches, are permissible in the remaining 35 percent of floor area under roof.

B. *Mansard style roof.* False mansards are prohibited.

C. *Flat roofs.* Buildings that have a flat roof shall be hidden from public view by a parapet and decorated by a cornice.

1. *Parapet.* The highest point of a parapet shall not at any point exceed 20 percent of the height of the supporting wall.

2. *Cornice*. Cornices may be simple or mixed (straight and curved moldings) but should not exceed 24 inches in depth. Cornices shall have a minimum of 12 inches in height, and a minimum of three vertical (not diagonal) changes in plane, and a variety of thicknesses in relief ranging from the greatest at the top to the least at the bottom.

D. *Canopy roofs*. Canopy roofs for gas station are exempt from the pitched roof requirements.

13.05.04. *Building entrances.* All buildings are subject to the following regulations:

A. *Entrance placement.* The main building entrance shall face the public right-of-way unless it is determined by the Land Use Administrator that such configuration is not practicable. When parking is located on the side or rear of the building, the placement of a suitably large building entrance that faces the parking area shall complement but not displace the main building entrance.

B. *Entrance articulation.* Main building entrances shall be articulated in a manner consistent with the architectural style of the building. All buildings shall have a minimum of one of the following architectural treatments, separate from the massing and articulation requirements, for each main building entrance: lintels, pediments, pilasters, columns, porticos, porches, overhangs, railings, balustrades, and features consistent with the building style.

13.05.05. *Awnings.* Awnings shall complement the architectural style and colors of the building. Awnings may be placed above windows and doors and are subject to the following requirements:

A. *Height.* A minimum clearance of eight feet shall be maintained between the sidewalk and the lowest part of the awning.

B. *Prohibited materials.* Plastic (or materials resembling plastic), shiny vinyl, and Plexiglas are prohibited.

C. *Illumination.* Backlit awnings are prohibited.

13.05.06. *Light fixtures*. Light fixtures attached to the exterior of a building shall be architecturally compatible with the style, materials, colors, and details of the building.

13.05.07. *Mechanical equipment, utilities, and storage areas.*

A. *Mechanical equipment.* When visible or audible from adjacent property or from the public right-of-way, mechanical equipment shall be screened by walls, fencing, roof elements, or landscaping. Screening shall be extended at least one foot above the equipment being screened. Ground-mounted mechanical equipment shall be located within 20 feet of the principal structure, except transformers.

B. *Service, utility, display, and storage areas.*

1. Loading areas or docks, outdoor storage, waste disposal, mechanical equipment, satellite dishes, truck parking, and other service support equipment shall be located behind the building line and shall be fully screened from the view of adjacent properties both at ground and rooftop levels by walls made of masonry, brick, or durable man-made materials.

2. Utility boxes and all ground mounted mechanical equipment must be totally screened from view of principal streets, as well as pedestrian areas and walkways. Backflow preventers shall be landscaped if in view of principal street.

3. Areas for outdoor storage, trash collection, and loading shall be incorporated into the primary building design, and construction materials for these areas shall be of comparable quality and appearance as that of the primary building.

## Sec. 14.01. - Rules for Construction of Language.

Except as otherwise provided herein all words shall have the customary dictionary meaning. The present tense includes the future tense and the future tense includes the present tense. The singular number includes the plural and the plural includes the singular. The word "person" includes a firm, corporation, association, organization, trust, or partnership. The word "lot" includes "plot", "tract" or "parcel." The word "building" includes "structure." The word "shall" is always mandatory. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied." The word "City" shall mean the "City of Palm Coast." The word "Staff" shall mean "City of Palm Coast Staff." The words "Comp Plan" shall mean the "City of Palm Coast Comprehensive Plan." The word "Code" or "LDC" shall mean the "City of Palm Coast Land Development Code." Any key word within the LDC for which a definition is not been provided shall have the same definition as provided in the Comp Plan or Florida Statutes (FS) Definition Index.

## Sec. 14.02. - Glossary.

*Abutting:* Any property that is immediately contiguous or immediately across any road or public rights-of-way from the subject property.

*Accent color:* Refers to the color application to any building accents such as shutters, doors, and awnings.

*Accent plant:* A shrub required for certain landscape buffer applications that have a minimum height of 12 inches at time of installation.

*Access:* The street system providing access to a parking facility, sometimes involving several streets, particularly if one-way.

*Accessory use* or *accessory structure:* A use or structure on the same lot with, and of nature customarily incidental and subordinate to, the principal use or structure.

*Access way:* The place, means, or way by which pedestrians and/or vehicles shall have safe, adequate, and usable ingress and egress to a property, use, or parking space.

*Acre:* 43,560 square feet; a measurement of area.

*Adult daycare center:* See *Daycare center/adult.*

*Adult entertainment and sexually-oriented businesses:* An adult performance establishment, adult bookstore/adult video store, adult motel, or adult theater as those terms are defined in Chapter 16, Article III in the City of Palm Coast Code of Ordinances, which is operated for commercial or pecuniary gain. An establishment with an adult entertainment license shall be presumed to be an adult entertainment establishment and sexually-oriented business.

*Adult family-care home:* See *Family-care home/adult.*

*Affordable multifamily unit:* A multifamily unit that is available for rent or purchase by a household earning 100 percent or less of the county's median income, adjusted for family size, for no more than 30 percent of the household's annual income.

*Aggregate sign area:* See *Sign area, aggregate.*

*Agriculture:* The production, keeping, or maintenance of plants and/or animals useful to humans whether for sale, lease, or personal use. The term includes farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, animal and poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce, provided the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

*Aisle, drive:* The traveled path through a parking facility between one or two rows of parked vehicles.

*Alcoholic beverage:* All beverages containing more than one percent of alcohol by weight and shall include intoxication beverages as defined herein. "Intoxication beverages" shall mean all liquors, wines, and beers containing more than three and two-tenths percent of alcohol by weight. In all prosecutions for violations of this LDC the manufacturer's label on the beverage container shall be prima facie evidence that the substance in such container was and is an alcoholic beverage.

*Alteration/altered:* These terms shall include any changes in structural parts, stairways, type of construction, kind or class of occupancy, light or ventilation, means of ingress or egress, or other changes affecting or regulated by the building code or this regulation, except for minor changes or repairs not involving the aforesaid features.

*Alteration of a watercourse:* A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

*Alternative landscape betterment plan:* A replacement landscape plan proposed by the developer of a unique or difficult site that provides additional landscape features not already required and a better public benefit, project screening, and aesthetic appeal than a standard landscaping plan.

*Ancillary:* A use that is incidental and subordinate to that of the main building or use of land and that is located on the same lot and under the same ownership in all respects.

*Animal feedlot:* A lot, building, or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is such that cannot maintain a vegetative cover.

*Antenna:* Any apparatus designed for the transmitting and/or receiving of electromagnetic waves including, but not limited to, telephonic, radio, or television communications. Types of elements include, but are not limited to, omni-directional (whip) antennas, sectionerized (panel) antennas, multi or single bay (FM & TV), yagi or parabolic (dish) antennas.

*Antenna array:* A single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

*Antenna element:* Any antenna or antenna array.

*Appeal:* Relating to flood damage protection, means a request for review of the Floodplain Administrator's interpretation of any provision of Section 10.02.

*Applicant:* An owner of real property or authorized agent including, but not limited to, developers, an authorized developer of real property, or an apparently authorized person, contractor, or other legal entity including, but not limited to, agents, employees, independent contractors, or others in privity with any of the above.

*Application:* A written request on a form provided by the City for a specific use.

*Aquifer:* A saturated geologic formation that will yield a sufficient quantity of water to serve as a private and public water supply.

*Arcade amusement center:* A place of business having at least 50 coin-operated amusement games or machines on premises that are operated for the entertainment of the general public and tourists as a bona fide amusement facility. (For definition of "adult arcade amusement center," see *Adult arcade amusement center.*)

*Arch:* A structure, especially one of masonry, forming a curved, pointed, or flat upper edge of an open space and supporting the weight above it, as in a bridge or doorway.

*Arterial road:* A route providing service that is relatively continuous and of relatively high traffic volume, long average trip length, high operating speed, and high mobility importance. In addition, every United States numbered highway is an arterial road.

*Articulate:* To give visible or concrete expression to the composition of structural elements.

*ASCE 24:* A standard titled Flood Resistant Design and Construction that is referenced by the Florida Building Code. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

*Assisted living facility:* Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.

*Available capacity:* The amount of a concurrency public facility available for use by the demand from new development after evaluating existing conditions and committed capacity. The term "available capacity" also means the amount of residual potential of a concurrency public facility available to hold, store, or accommodate the demands upon the facility without such concurrency public facility falling below the level of service standards established in the Comprehensive Plan as it may be amended from time-to-time.

*Aviary:* A place for the keeping of birds for the purpose of racing, exhibiting, or selling.

*Avoidance and minimization:* The applicant must consider practicable design modifications, which would reduce or eliminate adverse impacts to wetlands and other surface waters. The term "modification" shall not be construed as including the alternative of not implementing the system in some form, nor shall it be construed as requiring a project that is significantly different in type or function. A proposed modification, which is not technically capable of being done, is not economically viable, or which adversely affects public safety through endangerment of lives or property is not considered "practicable." To receive City approval, a system cannot cause a net adverse impact on wetland functions and other surface water functions not offset by mitigation and in accordance with the requirements established by state law.

*Awning:* A cloth or other covering extending in front of a window or doorway, or over a deck that provides protection from the sun or rain.

*Balcony:* A platform that projects from the wall of a building and is surrounded by a railing, balustrade, or parapet.

*Balustrade:* A balustrade is a row of repeating balusters—small posts that support the upper rail of a railing. Staircases and porches often have balustrades.

*Banding:* A horizontal decorative feature of a wall, such as a flat frieze or fascia, usually with a projecting molding at upper and lower edges. The flat portion between the moldings may be ornately decorated or flat and unadorned.

*Banner:* See *Sign, banner.*

*Base course:* The first or lower course of a foundation wall and made of large stones or a mass of concrete; also called foundation course.

*Base flood:* A flood having a one-percent chance of being equaled or exceeded in any given year. The base flood is commonly referred to as the "100-year flood" or the "one-percent-annual chance flood."

*Base flood elevation:* The elevation of flood having a one-percent chance of being equaled or exceeded in any given year, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map.

*Basement:* That portion of a building having its floor subgrade (below ground level) on all sides.

*Bay:* A division of a wall, roof, or other part of a building marked off by vertical elements, such as columns or pilasters. When related to parking, a parking facility unit that has two rows of parking stalls and a central aisle.

*Bay window:* A window projecting outward from the wall and forming a bay or an alcove within.

*Bed and breakfast inn:* A bed and breakfast inn is a family home structure, with no more than 15 sleeping rooms, that has been modified to serve as a transient public lodging establishment. Such use provides the accommodation and meal services generally offered by a bed and breakfast inn and is recognized as a bed and breakfast inn in the community in which it is situated or by the hospitality industry.

*Belvedere:* A roofed structure, especially a small pavilion or tower on top of a building, situated to command a wide view.

*Berm:* A bank or mound of earth usually placed against a foundation wall.

*Best management practice (or "BMP")(does not apply to Chapter 9):* A practice, activity, procedure, technique, program, methodology, or any combination thereof that, through experience and research, has proven to reliably lead to a desired result. A commitment to using the best management practices in any field is a commitment to using all the knowledge and technology at one's disposal to ensure success.

*Best management practices (applies only to Chapter 9):* Schedules of activities, prohibitions of practices, maintenance procedures, treatment methods and other management practices to prevent or reduce pollutants from entering or discharging from the City stormwater system.

*Boarding home:* A building or part thereof, other than a hotel, motel, or restaurant, where meals and/or lodging are provided for compensation for three or more unrelated persons where no cooking or dining facilities are provided in individual rooms.

*Bona fide:* Genuine or authentic; being actually and exactly what is claimed.

*Bona fide agricultural uses:* Good faith commercial or domestic agricultural use of the land, any such determination of which shall be based upon, but not limited solely to, the following factors:

(1) The productivity of land in its present use;

(2) The relationship of the property to the Comp Plan;

(3) The classification placed upon such lands by the Property Appraiser pursuant to F.S. § 193.461 , and

(4) The current zoning classification of such lands.

*Bottle club:* A commercial establishment licensed by the state operated for a profit, whether or not a profit is actually made, where patrons consume alcoholic beverages which are brought onto the premises and not sold or supplied to the patrons by the establishment, whether the patrons bring in and maintain custody of their own alcoholic beverages or surrender custody to the establishment for dispensing on the premises, and which is located in a building or other enclosed permanent structure. Non-alcoholic mixers or so-called "set-ups" may be provided by the club. This definition does not apply to sporting facilities where events sanctioned by nationally recognized regulatory athletic or sports associations are held; bona fide restaurants licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation whose primary business is the service of full course meals; or hotels and motels licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation; or a social, fraternal or civic association or organization which only occasionally or intermittently provides facilities for on-premises consumption of alcoholic beverages by its members and their guests and is not registered to sell alcoholic beverages. This definition also does not include the private clubs listed in F.S. § 561.20 (7)(a).

*Bracket:* A decorative or weight-bearing structural unit, two sides of which form a right angle with one arm flush against a wall and other flush beneath a projecting surface, such as eaves or a bay window.

*Breakpoint technology:* The engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent more susceptible to failure than any other point along the monopole. This is so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

*Breezeway:* A roofed passageway, open-sided, the design and construction of which is in keeping with that of the main building and which provides direct access between a main and attached accessory building.

*Buffer:* Open spaces, landscaped areas, fences, walls, berms, land that is vegetated with native species and left undeveloped, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances and/or reduce the shock of impact.

*Buffer, landscape:* The area of a site that commences at the property line or where plantable area begins and extends for the width of the required buffer, no matter how far into the site it goes.

*Buffer, wetland:* Upland area adjacent to or surrounding a wetland that is vegetated with native species and left undeveloped to provide protection from potential adverse secondary impacts associated with future development. The buffer area is not part of the jurisdictional wetland and as such shall not be calculated as part of the wetland acreage for the determination of wetland impacts.

*Buildable area:* Portion of a building site remaining after deducting all required setbacks and meeting any requirements regarding maximum impervious surface.

*Buildable land:* Land recognized as being above the 100-year flood level with soil conditions that can properly support structures, not including critical wetlands, such as lakes, streams, swamps, and marshes.

*Builder:* Any person, firm, association, partnership, corporation, realtor, or corporation who constructs model homes and other residential dwellings for sale to the public.

*Building:* Any structure, temporary or permanent, with a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

*Building envelope:* The space in which a structure is permitted to be built on a lot; it is defined by the minimum yard setbacks.

*Building height:* See *Height of building*.

*Building line:* See *Setback line*.

*Building permit:* Written permission issued by the proper municipal authority for the construction, repair, alteration, or addition to a structure.

*Building, principal:* A building or buildings in which is conducted the principal use of the lot on which said building is situated.

*Building site:* See *Site, building.*

*Bulkhead:* A structure built between a waterbody on one side and land on the other side.

*Business office:* Facility consisting of desks, computers, files, phone banks, coping machines, or other equipment usually associated with and utilized in a business office.

*Business transaction:* A business transaction is a transaction between the seller and a potential purchaser other than the signing of a contract of purchase, selection of a lot or house plan, selection of paint colors, selection of cabinets, fixtures, and appliances, and other similar actions by a purchaser in deciding on the purchase of a home.

*Bypass lane:* See *Lane, bypass*.

*Caliper:* The trunk diameter for new trees up to, and including, four inches in diameter as measured at six inches above grade. All new trees over four inches in caliper will be measured 12 inches above grade. The diameter of all existing trees shall be measured at 4½ feet above grade (diameter at breast height (DBH)).

*Canopy:* With reference to structures, a roof like cover, including an awning, that projects from the wall of a building over a door, entrance, or window; or a freestanding or projecting cover above an outdoor service area, such as at a gasoline service area. With reference to buffer yards, a landscape element that functions as an overhead or "ceiling" used in single or multiple plantings to create shade.

*Caretaker's dwelling:* An accessory dwelling that houses a caretaker, manager, or security agent employed on the building site due to the need for 24-hour care and security of plants, animals, equipment, or other conditions of the site.

*Carport:* A roofed structure not more than 75 percent enclosed by walls used to provide shelter for one or more vehicles.

*Cemetery:* Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.

*Certificate of completion:* A written document required prior to occupancy, issued for a use upon a developer's compliance with the provisions of this LDC and any applicable development agreement.

*Certificate of concurrency:* A statement issued by the City, on a form designed by the Land Use Administrator, relating to a specific development project on a specific parcel of real property or part thereof that is valid for so long as the underlying development order on the parcel is valid. It is to state that all concurrency review requirements, as provided herein, are satisfied as to said development and that specified quantities of concurrency public facilities are reserved. The issuance of a certificate of concurrency shall be a prerequisite to the issuance of any final development order. The issuance of a certificate of concurrency shall not be deemed to insure or guarantee any person or entity including, but not limited to, the holder or owner of the certificate, that any particular level of service currently exists or will exist in the future on a particular concurrency public facility at the time of issuance or at any other given point in time.

*Certificate of exemption:* A statement issued by the City, on a form designed by the Land Use Administrator, relating to a specific development project on a specific parcel of real property or part thereof, stating that said development is exempt from the concurrency requirements identified in Chapter 7. The issuance of a certificate of exemption shall be a prerequisite to the issuance of any final development order. The issuance of a certificate of exemption shall not be deemed to insure or guarantee any person or entity including, but not limited to, the holder or owner of the certificate, that any particular level of service currently exists or will exist in the future on a particular concurrency public facility at the time of issuance or at any other given point in time.

*Certificate of occupancy:* An official certificate issued by the City under the authority of ordinance or law authorizing the occupancy of a building for its intended use. The certificate of occupancy shall not be issued until a certificate of completion has been issued.

*Change in use:* See *Use, change in*.

*Child daycare center:* See *Daycare center/child.*

*Child family daycare home:* See *Family daycare home/child.*

*City Council:* The City Council of the City of Palm Coast.

*City Manager:* Either the City Manager or such staff person designated to act by the City Manager in order to respect the rules of the City Manager under the City Charter.

*City Stormwater system (or "MS4"):* A conveyance, storage area or system of conveyances and storage areas (including, but not limited to, roads with drainage systems, streets, catch basins, curbs,

gutters, ditches, manmade channels, storm drains, treatment ponds and other structural BMPs), owned or operated by a city that discharges to waters of the United States or to other MS4s, that is designed solely for collecting, treating or conveying stormwater, and that is not part of a publicly owned treatment works (POTW), as defined by 40 Code of the Federal Register 403.3.

*Clinic:* A place used for the care, diagnosis, and treatment of sick, ailing, infirm, or injured persons, and those who are in need of medical and surgical attention, but who are not provided with board or room or kept overnight on the premises.

*Club civic:* An establishment operated by a corporation or association of persons for community, social, fraternal, or recreational purposes and not operated or maintained for profit.

*Coastal high hazard area:* Relating to flood damage protection, this term means a special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. Coastal high hazard areas are also referred to as "high hazard areas subject to high velocity wave action" or "V Zones" and are designated on Flood Insurance Rate Maps (FIRM) as Zone V1-V30, VE, or V.

*Collector road:* A route providing service that is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a route also collects and distributes traffic between local roads or arterial roads and serves as a linkage between land access and mobility needs.

*Colonnade:* A series of columns placed at regular intervals.

*Colors:*

a) *Fuchsia:* A dark purplish-red color, a red with a tint of purple or hot bright pink.

b) *Magenta:* A dark purplish-red color.

~~c) *Olive green:* Varies from a medium yellowish green similar to the color of green olives to a dark brownish green to the grayish olive drab associated with military-issue clothing.~~

d) *Orange:* Color combinations using yellows and reds, lacking visible brownish shades.

e) *Purple:* Color combinations using reds and blues to include colors known as violet.

~~f) *Sage:* Grey-green color.~~

~~g) *Taupe:* A dark grayish brown or brownish gray.~~

~~h) *Terra cotta:* A brownish orange.~~

*Column:* A column is an upright pillar or post. Columns may support a roof or a beam, or they may be purely decorative. The base is the lower portion of a column. The capital is the upper portion of a column. The entablature is the area that the column supports.

*Commencement of construction:* See *Construction, commencement of.*

*Common area:* Area under common ownership of a subdivision (e.g. recreation area, medians), site plan, condominium, or similar development excluding rights-of-way.

*Communication conduit:* Any pipe which is installed in a road right of way or easement with the intent of carrying wire and cable to be used for communication technology.

*Community residential home:* Per F.S. ch. 419 , a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Family Services, or a dwelling unit licensed by the Agency for Health Care Administration. Such dwelling unit provides a living environment for up to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

*Compatibility:* The characteristics of different uses or activities, which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include: height, scale, mass, and bulk of structures, pedestrian or vehicular traffic, circulation, access, and parking impacts, landscaping, lighting, noise, odor, architecture, and public hazards. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development.

*Compensatory storage (floodplain):* An artificially excavated hydraulically equivalent volume of storage used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain.

*Completeness review:* The review of an application in order to determine if all material is present for the specific application type.

*Compliance review:* The review of an application in order to determine compliance with all federal, state, and local regulations.

*Comprehensive plan:* A plan designed and adopted to guide development in the City of Palm Coast as required by F.S. ch. 163 .

*Concurrency baseline statement:* A documented status report as to available capacity relating to concurrency public facilities as a result of the commitment, entitlement, or utilization of concurrency public facilities.

*Concurrency management monitoring system:* The data collection, processing, and analysis performed by the City to determine available capacity for concurrency public facilities and services and to track certificates of concurrency. Data utilized shall be the most current reliable information available to the City as determined by the Land Use Administrator.

*Concurrency management system (CMS):* The procedures and processes that the City utilizes to ensure that no development order or permit is issued by the City unless the necessary concurrency public facilities are available or are assured to be available consistent with the Comprehensive Plan and comply with State law in order to meet the impacts of development. As part of the CMS, the City shall operate and maintain a concurrency management monitoring system.

*Concurrency public facilities:* All arterial and collector roads; stormwater management; potable water treatment plants; sanitary sewer treatment plants, solid waste processing facilities, transfer stations and landfills; urban community parks including land and facilities; and mass transit buses. Such concurrency public facilities may be owned or operated by local, state or federal governments, independent districts and/or private organizations.

*Concurrency review:* The process utilized by the City to determine if concurrency public facilities and services are adequate to accommodate the impacts of new development at or above the levels of service standards adopted in the Comprehensive Plan.

*Conditionally exempt small quantity generator:* A conditionally exempt small quantity generator, as defined by the Resource Conservation and Recovery Act of 1976, 40 Code of Federal Regulations 261, is a facility or business which, in a calendar month, generates no more than 100 kilograms (220 pounds or 25 gallons) of hazardous waste or less than one kilogram of an acute hazardous waste. Additionally, the generator shall not accumulate more than 1,000 kilograms (2,200 pounds or 250 gallons) of hazardous waste at any time.

*Connectedness (of a wetland):* The degree to which a wetland borders terrestrial, aquatic, or other wetland systems. The greater the extent to which this bordering occurs (in numbers or linear distance), the greater the connectedness.

*Conservation:* Preserving from loss, waste, or harm. The official preservation of natural resources such as topsoil, forests, and waterways.

*Construction (does not apply to Chapter 9):* Any activity including erection, fabrication, installation, alteration, demolition, or removal of any structure, facility, or addition thereto, including all related activities, but not restricted to, clearing of land, earth moving, blasting, and landscaping.

*Construction activities (applies only to Chapter 9):* The creation, alteration or abandonment of any project, including placement of fill, land clearing, earthwork, or the placement or removal of structures. Cutting of trees or removal of vegetation is not considered land clearing, except where it involves stump removal, root raking, or grubbing.

*Construction, commencement of:* Construction activity beyond the mere clearing of land that has occurred on a parcel of real property and the construction of the infrastructure required to support an approved development plan has begun in good faith in accordance with all necessary permits and with bona fide intention to complete the construction of such infrastructure.

*Construction, new:* Relating to flood damage protection and the flood resistant requirements of the Florida Building Code, this term means any structure for which the "start of construction" commenced after February 5, 1986, or standard based upon specific technical base flood elevation data that establishes the area of special flood hazard. The term also includes any subsequent improvements to such structure.

*Construction, start of:* Relating to flood damage protection, this term means the date the building permit was issued for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a building including, but not limited to, a manufactured home and mobile home on a site such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home or mobile home on a foundation. Permanent construction does not include land preparation such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units and are not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Containment:* Physical systems or operational practices used to prevent the release of hazardous substances to the environment.

*Containment, secondary:* A physical structure such as curbing, trays, double-walled tanks, spill pallets, or other structural controls used to prevent the release of a spill of regulated substances to the environment.

*Contamination:* The presence of hazardous substances in surface water, groundwater, soil, sediment, or upon the land in quantities that exceed applicable cleanup, target levels established in the Florida Administrative Code (FAC) or other applicable regulations as amended from time to time.

*Continuing care retirement community:* An integrated residential development designed to let senior adults age in place by providing independent living units, and including either an assisted living facility where assistance with personal care is provided, or a nursing home providing long-term skilled nursing.

*Continuous transit:* The nonstop movement of a vehicle except for stops required by traffic laws.

*Contractor:* Any person, firm, association, partnership, realtor, or corporation engaged in the business of accepting orders or contracts.

*Convenience store with fueling stations:* A retail store selling convenience goods that may include prepared foods with seating for on-site consumption, and having pumps for the fueling of automobiles and pickups.

*Copy area:* See *Sign area.*

*Cornice:* The cornice is the uppermost section of moldings along the top of a wall or just below a roof.

*Critical facilities:* Any facility that, if flooded or impacted by a natural disaster, would result in severe consequences to public health and safety. Critical facilities include, but are not limited to, hospitals, nursing homes, police stations, fire stations, emergency operation centers, chemical or hazardous materials storage facilities, and utility facilities. The term includes facilities that are assigned Flood Design Class 3 and Flood Design Class 4 pursuant to the Florida Building Code, Building.

*Cross connection:* Any physical arrangement whereby a public water supply is connected directly or indirectly with any other water supply system, wastewater, drain, conduit, pool, storage reservoir, plumbing fixture, or any other device, facility, or system which contains or may contain contaminated water, sewage, waste material, or other material or substance of unknown or potentially unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper-connections, changeable devices, or other devices through which, or because of which, backflow could occur are deemed to constitute cross connections.

*Cross section:* A profile of the ground surface perpendicular to the centerline of a street, stream, or valley bottom.

*Cultural resources:* Any prehistoric or historic district or building, archaeological site, building, object, or other real or personal property of historical, architectural, or archaeological value and folk life resources. These properties or resources may include, but are not limited to, monuments, memorials, Native American habitations, ceremonial sites, abandoned settlements, sunken or abandoned shops, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the State.

*Cultural resources, potentially significant:* A cultural resource or archaeological site that may be considered, after further investigation, by the State Historic Preservation Officer to be eligible for the National Register of Historic Places.

*Cultural resources, protection of:* Measures taken to avoid, minimize, or mitigate effects to cultural resources consistent with the provisions of this LDC.

*Cultural resources, significant:* An archaeological site of prehistoric or historic significance that the State Historic Preservation Officer considers eligible for the National Register of Historic Places.

*Cupola:* A dome-shaped ornamental structure placed on the top of a larger roof or dome. In some cases, the entire main roof of a tower or spire can be a cupola. More frequently, however, the cupola is a smaller structure which sets on top of the main roof.

*Curb:* A raised edge on the side of a street or pavement surface.

*Daycare center/adult:* Any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.

*Daycare center/child:* Any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit.

*De minimis activity establishment:* An establishment operated by an organization exempt from federal taxation under Section 501(c) of the Internal Revenue Code and with five or fewer electronic or mechanical devices that are used to conduct a drawing by chance, sweepstakes, or game promotion utilizing those electronic or mechanical devices.

*Dead tree:* Means a tree that is dead or damaged beyond repair or is in an advanced state of decline (where an insufficient amount of live tissue, green leaves, limbs, or branches exists to sustain life) and has been determined to be such by the Land Use Administrator.

*Demand for concurrency public facilities:* The quantitative measure of the amount of concurrency public facility or other public facilities that is necessary to support a specific increment of development.

*De minimis:* A minor deviation from the required standards or a small degree of relief from requirements as set forth in the LDC in which it is not necessary to acquire a quasi-judicial decision.

*Density:* The number of dwelling units per gross acre of buildable land, which includes all streets, public right-of-ways, easements, open space, and onsite recreational facilities.

*Derelict vessel:* A vessel left upon any public waters or docked at private property in a wrecked, junked, or substantially dismantled condition.

*Design flood:* The flood associated with the greater of the following two areas:

(1) Area with a floodplain subject to a 1-percent or greater chance of flooding in any year; or

(2) Area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

*Design flood elevation:* The elevation of the "design flood," including wave height, relative to the datum specified on the community's legally designated flood hazard map. In areas designated as Zone AO, the design flood elevation shall be the elevation of the highest existing grade of the building's perimeter plus the depth number (in feet) specified on the flood hazard map. In areas designated as Zone AO where the depth number is not specified on the map, the depth number shall be taken as being equal to two feet.

*Designee:* A person(s) duly authorized to act on the behalf of another.

*Detailed methods:* Relating to flood damage protection, this term means a method of determining a base flood elevation with a site-specific engineering analysis as described in FEMA publication "Managing Floodplain Development in Approximate Zone A Areas - A Guide for Obtaining and Developing Base (100-Year) Flood Elevations," also known as FEMA publication 265.

*Developer:* That person improving a parcel of land within the City and, who may or may not be the owner of the property.

*Development:* Relating to flood damage protection, this term means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, tanks, mining, dredging, filling, grading, paving, excavating, drilling operations, temporary or permanent storage of materials or equipment or other land disturbing activities.

*Development order, final:* The approval of a development of regional impact, a borrow pit permit, an electrical permit, a master planned development, a right-of-way utilization permit, a site plan, a special exception, a variance, a subdivision preliminary plat, a statutory subdivision final plat, a nonstatutory subdivision plat, an underground utility permit, a dredge and fill permit, a written agreement with the Flagler County School Board for the provision of public facilities and services as required by state law, and any other development order which results in an immediate and continuing impact upon concurrency public facilities. Final development orders may address future expansions of a development and may provide for phasing. A final development order may provide for conditions that must be met in order for subsequent approvals to be given or permits to be issued.

*Development order having no impacts on concurrency public facilities:* Those development orders that permit or approve:

(1) Accessory facilities for agricultural use that create no additional impacts on concurrency public facilities.

(2) An accessory structure to a residence.

(3) Any sub-permit to new construction.

(4) A change of electrical services.

(5) A driveway or parking lot paving.

(6) Fences.

(7) Permits for historical documentation.

(8) Remodeling, such as moving a wall, if no change in use, addition of units or interior completion of a shell only structure is involved.

(9) The repair or replacement of mechanical systems, wiring or plumbing.

(10) The replacement of structures which will have no additional impacts on concurrency public facilities.

(11) The re-roofing of existing structures.

(12) Room additions (including screen rooms) to a residence.

(13) Signs.

(14) Swimming pools.

(15) Temporary construction trailers.

(16) Use permits and right-of-way utilization permits that do not increase the needed capacity of concurrency public facilities.

(17) Walls.

(18) Wells and septic tanks.

*Diameter at breast height:* Shall mean the measurement of an existing tree trunk's diameter at four and one-half feet above grade (breast height). For trees with less than four and one-half feet of clear trunk, diameter shall be of the largest leader measured four and one-half feet above ground level. For multitrunk trees, each branch that forks below four and one-half feet is considered a separate tree. Trees that originate from the same base shall be considered one tree regardless of the number of forks present above ground only for purposes of minimum tree cover count only.

*Directional sign:* See *Sign, directional*.

*Discharge:* Any spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping that may be either accidental or purposeful of any hazardous substance that may negatively impact surface water, soils, or groundwater.

*Discount superstore:* A very large retail store greater than 100,000 square feet in size that is usually part of a chain, offering a wide variety of merchandise for sale at prices typically below the market price.

*Dock:* Fixed or floating structure, including access walkways, platforms, catwalks, mooring pilings, lifts, boathouses, and other associated water-dependent structures used for mooring and accessing watercraft.

*Dormer:* A dormer is a window that is set vertically on a sloping roof. The dormer has its own roof, which may be flat, arched, or pointed.

*Drainage:* The control of surface flow of water by man-made facilities such as canals, ditches, culverts, or dikes. It can also refer to the artificial lowering of groundwater and the natural drainage of a site in the predevelopment condition.

*Drainage area:* The watershed (acreage) contributing surface water runoff to the City's stormwater management facilities or systems.

*Dredging:* To excavate underwater material.

*Drinking establishment:* An establishment where alcoholic beverages are obtainable within or thereon and where such beverages are consumed on the premises. A bottle club is also a drinking establishment.

*Driveway:* A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure. A standard driveway is one leading to a garage for a single-family, two-family, or townhouse residence.

*Driveway median:* A landscaped island that separates ingress and egress driveways.

*Duplex:* A detached building intended, designed and occupied as two dwelling units with a common wall or roof on a single lot.

*Dwelling* or *dwelling unit:* Any building, portion thereof, or other enclosed space or area used as or intended for use as the home of one family, with separate cooking and housekeeping facilities, either permanently or temporarily.

(1) *Single-family:* A detached building designed for and occupied by one family as a home, with ~~cooking and housekeeping facilities.~~ one range in the kitchen area within an interior living space..

(2) *Two-family:* A detached building intended, designed and occupied as two dwelling units with a common wall or roof, and with each unit located on a separate lot under separate ownership.

(3) *Multifamily:* A building designed for or occupied by three or more families, with separate cooking and housekeeping facilities for each.

*Earth tones:* Various rich colors containing some brown. Earth tones are defined herein to include shades of brown, taupe, beige, and gray.

*Easement:* A grant by a property owner of the use of land for a specific purpose.

*Educational facilities:* See *Schools.*

*Effective removal:* A condition of a tree caused by the excessive damage or improper pruning of roots or tree canopy. This includes, but is not limited to, topping, lion tailing, hat racking, or elevation of lower tree branches to a height of more than one-third of the total height of the tree (unless tree is a "standard" form tree).

*Egress:* An exit.

*Electronic equipment:* Any electronic device provided by or on behalf of the operator that is used or adapted for use to conduct, or reveal the results of, a drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes or other game promotion, that displays results by simulating a game or games ordinarily played on a slot machine or other similar games of chance.

*Electronic game promotion:* A sweepstakes or other game promotion which utilizes electronic equipment, or a drawing by chance conducted in connection with the sale of a consumer product or service which utilizes electronic equipment that does not violate Florida law.

*Encroachment:* The placement of fill, excavation, buildings, permanent structures or other development into a flood hazard area which may impede or alter the flow capacity of riverine flood hazard areas.

*Encumbrance:* Any claim or restriction on a property's title. Relating to concurrency, an administrative technique within the concurrency management system implemented to avoid over committing available capacity. The encumbering of available capacity is not synonymous with the issuance of a "certificate of concurrency."

*Endangered species:* Those animal species listed in Section 39-27.003, FAC and those plant species listed as endangered in 50 Code of Federal Regulations 17.12.

*Entrance:* Entranceway into a structure.

*Erected:* The word "erected" includes built, constructed, reconstructed, moved upon, or any physical operations on the site required for building. Excavation, fill, drainage, and the like shall be considered a part of erection.

*Etching:* Engraving a design in glass, metal, or a hard surface by removing part of the surface. Also, to remove surface concrete to create an exposed aggregate finish.

*Excavation:* To make a hole, unearth, scrape, or dig out for the purpose of construction, demolition, or stump/root removal with specific relation to a tree drip line and root system.

*Facade:* The exterior face of a building including the front exterior wall and any side exterior walls facing the public right of way or access easement.

*Facility:* A structure or place built, installed, or established to serve a particular purpose.

*Facility reservation fees:* The dollar amount that is due as impact fees and connection fees relating to concurrency public facilities which fees must be paid as a condition precedent to the validity of a certificate of capacity. The fees are computed at the rate that is in effect at the time that payment is made. Such fees are refundable if a final development order is not issued, expires or is surrendered pursuant to an amending development order issued by the City and a new applicant purchases the reserved capacity from the City. If no refund occurs, however, the fees paid run with the real property to which they relate as a credit against future fees relating to development of the real property.

*Family care home/adult:* Per F.S. ch. 429 , a full-time, family-type living arrangement, in a private home, under which a person who owns or rents the home provides room, board, and personal care on a 24-hour basis for no more than five disabled adults or frail elders who are not relatives.

*Family child daycare home/child (large):* An occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation. One of the two full-time child care personnel must be the owner or occupant of the residence. A large family child care home must first have operated as a licensed family day care home for two years with an operator who has had a child development associate credential or its equivalent for one year, before seeking licensure as a large family child care home. A large family child care home shall be allowed to provide care for one of the following groups of children, which shall include those children under 13 years of age who are related to the caregiver:

(1) A maximum of eight children from birth to 24 months of age.

(2) A maximum of 12 children, with no more than four children under 24 months of age.

*Family day care home/child:* A residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. The license holder must reside in the residence. A family daycare home shall be allowed to provide care for one of the following groups of children, which shall include those children under 13 years of age who are related to the caregiver:

(1) A maximum of four children from birth to 12 months of age.

(2) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.

(3) A maximum of six preschool children if all are older than 12 months of age.

(4) A maximum of ten children if no more than five are preschool age and, of those five, no more than two are under 12 months of age.

*Farm animals:* Animals considered permissible for an agricultural use, including horses, mules, burros, sheep, cattle, rabbits, chickens, ducks, geese, pigs, goats, ostrich, emu, or other similar animals.

*Fascia:* A flat horizontal band or member between moldings, especially in a classical entablature.

*Fence:* An artificially constructed vertical barrier constructed of wood, vinyl, or metal erected to enclose, restrict access to, screen, or separate areas. An open fence is one having at least 50 percent visibility.

*Field conference:* A specific purpose meeting scheduled and held at a job site.

*Final development order:* See *Development order, final*.

*Flat roof:* See *Roof, flat*.

*Fleet storage:* The storage of all operable and/or inoperable vehicles consisting of five or more vehicles, which are owned or leased by the business establishment, exclusive of lawful display of all vehicles and trailers, the parking of vehicles for permitted businesses and the parking, storage, and display of heavy commercial vehicles and construction equipment.

*Flood* or *flooding:* A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood damage-resistant materials:* Any construction material capable of withstanding direct and prolonged contact with floodwaters without sustaining any damage that requires more than cosmetic repair.

*Flood hazard area:* The greater of the following two areas:

(1) The area within a floodplain subject to a one-percent or greater chance of flooding in any year.

(2) The area designated as a flood hazard area on the community's flood hazard map, or otherwise legally designated.

*Flood insurance rate map:* An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

*Flood insurance study:* The official report provided by the Federal Emergency Management Agency. It is an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations or an examination, elevation, and determination of mudslide (i.e., mudflow) and/or flood related erosion hazards. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

*Floodplain:* Any land area susceptible to being inundated by water from any source. Also, see definition of *flood* or *flooding*.

*Floodplain Administrator:* The office or position designated and charged with the administration and enforcement of this article (may be referred to as the Floodplain Manager).

*Floodplain development permit or approval:* An official document or certificate issued by the community, or other evidence of approval or concurrence, which authorizes performance of specific development activities that are located in flood hazard areas and that are determined to be compliant with this article.

*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

*Floodway encroachment analysis:* An engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

*Floor:* The top surface of an enclosed area in a building (including basement), i.e. top of slab in concrete slab construction or top of wood flooring in wood frame construction.

*Floor, lowest:* The lowest floor of the lowest enclosed area of a building or structure, including basement, but excluding any unfinished or flood-resistant enclosure, other than a basement, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of the non-elevation requirements of the Florida Building Code or ASCE 24.

*Floor area:* The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Provided that for the purpose of determining compliance with the permitted floor area, the floor area of enclosed required off-street parking areas shall not be included. Provided further that floor area for outdoor display of merchandise or customer seating, whether uncovered or covered by a tent or canopy, under the provisions of this LDC shall mean the smallest rectangular area encompassing the display or customer seating area.

*Floor area, gross:* The sum of the horizontal areas of the stories of a building or buildings, measured from the exterior faces of exterior walls or from the centerlines of walls that separate buildings. Included within such sum shall be the areas of all stories and attic spaces providing structural headroom of at least five and five-tenths feet; interior balconies and mezzanines; and any other space reasonably usable for any purpose except parking; no matter where located within a building. This term does not include the area of any parking garage structure, but does include all other interior spaces including those that are not heated or air conditioned.

*Floor area ratio:* The gross floor area of all buildings divided by the lot area.

*Florida Building Code (FBC):* The family of codes adopted by the Florida Building Commission, including: Florida Building Code, Building; Florida Building Code, Residential; Florida Building Code, Existing Building; Florida Building Code, Mechanical; Florida Building Code, Plumbing; Florida Building Code, Fuel Gas.

*Florida Department of Transportation Design Standards Road and Bridge Technical Specifications:* Publication by the Florida Department of Transportation tabulating and specifying design and safety requirements appropriate for use in designing and constructing roadways and bridges for motor vehicle and pedestrian uses.

*Florida Department of Transportation Standards for Sight Triangles and Sight Distances:* Publication by the Florida Department of Transportation tabulating design and safety requirements protecting appropriate lines of sight for motor vehicle drivers.

*Florida-friendly landscaping:* A set of nine guiding principles which help protect natural resources and preserve Florida's unique beauty including: right plant, right place; water efficiently; fertilize appropriately; mulch; attract wildlife; manage yard pests responsibly; recycle; reduce stormwater runoff; and protect the waterfront.

*Florida master site file:* The listing of cultural resources, historic or archaeological resources maintained by the Florida Department of State, Division of Historical Resources and Bureau of Archaeological Research.

*Fluorescent colors:* Very bright and or glowing colors.

*Foot-candle:* A unit of measurement referring to illumination incident to a single point. One foot-candle is equal to one lumen uniformly distributed over an area of one square foot.

*Footprint:* The horizontal area as seen in a plan measured from outside of all exterior walls and supporting columns. It includes buildings, residences, garages, covered carports, and accessory structures, but not trellises, patios, and areas of porch, deck, and balcony less than 30 inches from finished grade.

*Foundation:* The underlying structure of a building, usually constructed of concrete, which supports the foundation walls, piers, or columns.

*Freeboard:* Relating to flood damage protection, this term means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

*Full cut-off light fixture:* A light fixture with elements such as shields, reflectors, or refractor angles that direct and cut off the light at a cutoff angle less than 90 degrees.

*Fully shielded:* When pertaining to lighting, light fixtures shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, project below the horizontal plane running through lowest point on the fixture where light is emitted.

*Functionally dependent use:* A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, including only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities; the term does not include long-term storage or related manufacturing facilities.

*Gable roof:* See *Roof, gable*.

*Gallons per day:* The gallons per day based on an annual average basis.

*Gambrel roof:* See *Roof, gambrel*.

*Garage:* For residential purposes, an enclosed area for the parking/storage of vehicles. For nonresidential purposes, a building for the storage and/or repair of motor vehicles generally closed on all sides.

*Garage, attached:* An enclosed area for the parking/storage of vehicles that is structurally connected to a residential unit, which may include connection by the means of a breezeway, ~~provided the breezeway is a minimum of six feet in length and in~~ which openings are required for each building as an entrance/exit.

*Garage, detached:* A detached structure that is accessory to a single detached dwelling unit and to which there is legal vehicular access from a public right-of-way, designed for the storage of motor vehicles for the residents of the single detached dwelling unit.

*Gasoline service station:* A business having at least one bay for automotive services, pumps for the fueling of automobiles and pickups, and which may include limited retail sales of convenience goods.

*Geographic search area:* The area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

*Good faith:* An honest intention to accomplish or complete an approved development plan on a particular parcel of real property, but shall not encompass dishonest, fraudulent, or deceitful actions, ignorance of the law, mistakes of law, delays that are intentional or result from neglect or lack of diligence, or actions or occurrences caused by, resulting from, or facilitated by the property owner, developer, or agent thereof. It shall not be an absence of good faith if a developer attempts to proceed with a development if the developer was prevented from attaining a certain status, event, or condition due to the demonstrated and clear and convincing uncertainty of obtaining required governmental permits for which there is a substantial likelihood that such permits will be granted; provided, however, that delays which are caused by the developer or real property owner and acts by said persons causing delays and omissions by said persons which cause delays shall eliminate the delay as a valid factor which would excuse the attainment of the status, event or condition.

*Good faith continuation:* The final development order for a project pertaining to a parcel of real property that has not expired and a certificate of completion for development of infrastructure must be received within three years of the date of the preconstruction conference and subject to the following:

(1) Within four years of issuance of the final development order which resulted in the development being deemed statutorily vested, the preconstruction conference for the development must have occurred, provided, however, that if the developer diligently attempted to attain the completion of the preconstruction conference for the development in good faith, but was inhibited due to adverse general market conditions, said time frame shall be tolled during the period during which the recessionary cycle occurred.

(2) Within three years of the completion of the preconstruction conference, the developer must be issued a certificate of completion for the completion of the development's infrastructure; provided, however, that if the developer attempted to attain the certificate of completion, but was inhibited due to adverse general market conditions, said time frame shall be tolled during the period during which the recessionary cycle occurred.

(3) As to residential preliminary plats, the final plat for the development must be submitted within one year of the effective date of this LDC, provided, however, that the underlying development order that resulted in the development being deemed statutorily vested must not have expired.

(4) It shall not be an absence of good faith if a developer attempts to proceed with a development, if the developer was prevented from attaining a certain status, event, or condition due to the demonstrated and clear and convincing uncertainty of obtaining required governmental permits for which there is a substantial likelihood that such permits will be granted; provided, however, that delays which are caused by the developer or real property owner, and acts by said persons causing delays and omissions by said persons which cause delays shall eliminate the delay as a valid factor which would excuse the attainment of the status, event, or condition.

*Grade, highest adjacent:* The highest natural elevation of the ground surface prior to construction next to the proposed walls of a building.

*Groundwater:* Water in the subsurface of the earth in both soils and geologic formations that are saturated.

*Hazardous substance:* A substance or combination of substances, which because of its quantity or concentration or physical, chemical, or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or may pose a substantial present or potential hazard to human health or to the environment when improperly used, handled, treated, stored, transported, disposed of, or otherwise managed. A material may be judged as hazardous if it is corrosive, reactive, ignitable, or toxic.

*Hazardous waste:* Waste materials including, but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials, and similar harmful chemicals and wastes that require special handling and must be disposed of in a manner that conserves the environment and protects the public health and safety.

*Hedge:* A close planting of shrubs that forms a compact, dense, visually opaque, living barrier when mature.

*Height of building:* Building height refers to the vertical distance between lowest finished grade at the front of the building, or the base flood elevation where applicable, and:

(1) The average height level between the eaves and ridgeline of gable, shed, hip or gambrel roof;

(2) The deck line of a mansard roof; or

(3) The highest point of the coping of a flat roof.

*Hip roof:* See *Roof, hip*.

*Historic resources:* See *cultural resources*.

*Historic structure:* Any structure that is determined eligible for the exception to the flood hazard area requirements of the Florida Building Code, Existing Building, Chapter 12 Historic Buildings.

*Home occupation:* A use approved as a permitted use or special exception and any on-site business conducted entirely within a dwelling and carried on by residents thereof. Such use is to be clearly incidental and secondary to the residential uses and shall not change the residential character of the dwelling, and further provide that the use can meet the special exception regulations, as outlined in this LDC.

*Hotel:* A transient commercial lodging establishment consisting of one or more buildings used only for this purpose, including accessory uses such as eating and drinking facilities, recreation facilities, and parking. Lodgings may consist of sleeping rooms only, or may include cooking facilities also, but not intended for long-term occupancy.

*Identification sign:* See *Sign, identification.*

*Illuminating Engineering Society of North America:* Agency that approved an American National Standard Practice for Roadway Lighting. This recommended practice provides the design basis for lighting roadways, adjacent bikeways, and pedestrian ways.

*Imperiled upland habitat:* Includes natural habitats known to support rare species and the Coastal/Conservation element of the Comp Plan. Florida Natural Areas Inventory (FNAI) criteria are utilized to determine if the area consists of the following designations:

(1) Sandhill.

(2) Scrub.

(3) Maritime Hammock.

(4) Live Oak Hammock.

(5) Coastal Strand.

(6) Coastal Grassland.

*Impervious:* Any improvements that do not readily absorb or retain water including, but not limited to, building roofs, parking, driveway areas, gravel areas, sidewalks, and paved areas.

*Impervious surface ratio:* The percentage of the area of a lot covered by impervious surface.

*Improvements, required site development:* All land development improvements necessary to support the proposed buildings, as documented on the approved site plan drawings.

*Improvements, required subdivision:* All land development improvements necessary to support and service a proposed division of land into smaller parcels. Work includes, but is not limited to, water and sewer, paving and drainage, earthwork and clearing, erosion and sediment control facilities, and measures.

*Independent living unit:* A senior adult detached or attached housing unit that is an element of a continuing care retirement community, that provides optional services for residents to receive their choice of meals, personal services, medical services, housekeeping, transportation services, and organized social/recreational activities.

*Infrastructure:* A set of interconnected structural elements that provide the framework supporting an entire structure. This term has diverse meanings in different fields, but in the LDC, it refers to roads, water mains, and storm and sanitary sewer pipes to support a site plan or subdivision project.

*Inspection:* Observation of construction work being performed to assure compliance with approved plans and permits.

*Inspection punch list:* List of deficiencies and concerns that are a result of an inspection of a construction site.

*Institution:* Building and/or land designed to aid individuals in need of mental, therapeutic, rehabilitative counseling, or other correctional services.

*Island:* A raised area in a roadway, driveway, or parking facility used to control or direct traffic flow that typically contains landscape material to provide shade and aesthetics within parking facilities.

*Island, median:* A landscaped island at least five feet wide located between two rows of parking spaces with no intervening drive aisle.

*Island, terminal:* A landscaped island at least five feet wide located at the beginning or the end of a row of parking spaces that separates the adjacent parking space from a drive or parking aisle.

*Junk yards:* Place, structure, or lot where junk, waste, discarded, salvaged, or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers, etc., including auto wrecking yards, used lumber yards, house-wrecking yards, and yards or places for storage or handling of salvaged house-wrecking and structural steel materials. This definition shall not include pawn shops and establishments for the sale, purchase, or storage of usable secondhand cars, salvaged machinery, used furniture, radios, stoves, refrigerators, or similar household goods and appliances. Nor shall it apply to the processing of used, discarded, or salvaged materials as part of manufacturing operations.

*Kennel:* Any place or premises where ~~four~~ five or more canines or felines over four months of age are kept.

*Keystone:* Stone wedge at uppermost point of an arch that secures other arch members in place. Wedge-shaped member installed above an arch for ornamentation.

*Kitchen, summer:* An outdoor kitchen located for the primary use of outdoor entertaining not to be used for the purpose of a separate single-family dwelling and enclosed by no more than three walls under roof, including but not limited to, glass enclosures.

*Landscape area:* All pervious area within a site that supports the growth of plant material of any type. When used to calculate minimum tree requirements and landscape area requirements, the following areas shall not be counted as landscape area: synthetic turf areas, ponds, lakes, streams, rivers, and normally wet stormwater retention areas. If an existing or proposed water body, or normally wet retention area is a limiting factor as far as available site development area, then up to 25 percent of the area comprised by these features may be counted as landscape area providing this area be included in the area calculations for overall tree requirements.

*Landscape buffer:* See *Buffer, landscape.*

*Landscape feature:* An embellishment to the natural environment by blending manmade or natural materials with plantings in order to improve the outdoor aesthetics of a property. Landscape features, which include decorative planters, stone work, brick work, shall not exceed three feet in height. A Landscape feature, as defined herein is not a fence or wall.

*Landscaping:* Living plant material purposely installed for functional or aesthetic reasons at ground level and open to the sky.

*Land Use Administrator:* The City Manager shall act as the Land Use Administrator under the provisions of this LDC and shall prescribe and direct the processes and procedures, other than as otherwise specifically set forth in this LDC, relative to the administration of development review within the City. The City Manager may assign such duties to a City staff person or a team of City staff persons as he or she deems appropriate.

*Lane:* A strip of roadway or vehicular use area specifically designated to accommodate a single line of vehicles; a narrow way or passage for a specific use such as bicycles, pedestrians, etc.

*Lane, bypass:* An alternative channel, passage, or route.

*Large quantity generator:* A large quantity generator, as defined by the Resource Conservation and Recovery Act of 1976, 40 Code of Federal Regulations 260, is one who generates more than 1,000 kilograms (2,200 pounds or 250 gallons) of hazardous waste in a calendar month.

*Large-scale commercial center:* A commercial facility intended to function as a unit with a large-scale retailer as the anchor with shared services of other commercial uses. At least one anchor unit shall contain a minimum of 60,000 square feet.

*Lawn/turf/sod:* Upper layer of soil bound by live plant roots supporting the grass covered surface of the ground.

*Letter of Map Change (LOMC):* An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include, but not limited to:

(1) *Letter of Map Amendment (LOMA):* An amendment based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

(2) *Letter of Map Revision (LOMR):* A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.

(3) *Letter of Map Revision Based on Fill (LOMR-F):* A determination that a structure or parcel of land has been elevated by fill above the base flood elevation and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(4) *Conditional Letter of Map Revision (CLOMR):* A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

*Level of service:* An existing or projected indicator of the extent or degree of service provided by a concurrency public facility or other public facility based on and related to the operational characteristics of the concurrency public facility or other public facility.

*Level of service standard:* The adopted and acceptable volume of demand for each concurrency public facility or other public facility thereby reflecting an acceptable operational level as to a facility. Volume of demand may be stated as a measure of quantity of capacity per unit of demand or may state a level of performance for which the methodology and rationale used for quantitative measurement is clearly demonstrated in the Comp Plan or its supporting data and analyses.

*Light-duty truck:* As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

*Light fixture:* An artificial illuminating device or lamp, permanent or portable, used to illuminate or to attract attention. Such devices shall include, but are not limited to, search, spot, string, or floodlights for:

(1) Building and structure lighting, to include canopies and overhangs.

(2) Recreational area lighting.

(3) Parking lot lighting.

(4) Landscape lighting.

(5) Billboard or sign lighting.

(6) Street lighting.

(7) Display and service area lighting.

*Lintel:* A horizontal structure member, such as a beam or stone, which spans an opening, as between the uprights of a door or window or between two columns or piers.

*Listed species:* Those animal species which are endangered, threatened, or of special concern and are listed in Sections 39-27.003, 39-27.004 and 39.27.005, FAC and those plant species listed in 50 Code of Federal Regulation 17.12 when such plants are found to be located in a wetland or other surface water (Subsection 40C-4.021(19), FAC).

*Littoral zone:* An environmental planting area around the perimeter of water bodies consisting of littoral shelf plantings, transitional plantings, and upland vegetation.

*Live aboard watercraft:* Any watercraft docked at a marina facility inhabited by a person or persons for any three consecutive days or a total of five days within a 30-day period, or any watercraft represented as a place of business, a professional or other commercial enterprise, or a legal residence.

*Living area:* Enclosed rooms, as measured by its outside dimensions, which can be heated or cooled with the exception of garages.

*Loading space, off-street:* A space logically and conveniently located for pickups or deliveries or for loading or unloading, scaled to the size of the delivery vehicles expected to use it, and accessible to such vehicles when required off-street parking spaces are occupied.

*Local road:* A route providing service that is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property.

*Lot:* A parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law.

*Lot, corner:* A lot abutting upon two or more streets at their intersection of less than 135 degrees. The point of intersection of the street lines is the corner. In the event the principal building is more directly oriented to the lot corner at the street intersection than to either street frontage, such lot shall be considered to have two front yards, one abutting each street.

*Lot depth:* The average distance between the front and rear lot lines.

*Lot, double frontage:* A lot having frontage on two nonintersecting streets, as distinguished from a corner lot.

*Lot line, front:* The lot line separating the lot from the rights-of-way of the principal street on which the lot abuts.

*Lot, interior:* A lot other than a corner lot.

*Lot line, rear:* The lot line opposite to and most distant from the front lot line, except for double frontage lots, which shall have two front lot lines.

*Lot line, side:* Any lot line other than front or rear lot line. A side lot line of a corner lot, separating a lot from a street, is called a side street lot line. A side lot line separating a lot from another lot is called an interior lot line.

*Lot of record:* A lot established prior to the enactment of this regulation that is a part of a recorded map or plat or a lot described by metes and bounds description, which is recorded according to Florida Law prior to November 16, 2008.

*Lot width:* The average distance between the side lot lines, measured along the front setback line.

*Louvers:* Vented covering for an opening that allows passage of air, but prevents rain and pests from entering. Commonly made of wood, aluminum, or galvanized steel and designed of horizontal slats in doors and shutters.

*Luminaire:* A complete lighting unit consisting of one or more lamps, together with the components designed to distribute the light, to position and protect the lamps, and to connect the lamps to the electrical power supply.

*Machinery and equipment sign:* See *Sign, machinery and equipment.*

*Maintenance surety:* See *Surety, maintenance.*

*Mangrove stand:* An assemblage of mangrove trees which is mostly low trees noted for a copious development of interlacing adventitious roots above the ground and which contain one or more of the following species: black mangrove (Avicennia nitida); red mangrove (Rhizophora mangle); white mangrove (Longunculariaracemosa); and buttonwood (Conocarpus erecta).

*Mansard roof:* See *Roof, mansard*.

*Mansard, false or stuck on:* A sloped plane that is attached or applied to a flat roof to make it appear to be a mansard roof.

*Manual on transportation:* The standard manual of recommended minimum requirements for signs, signals, and pavement markings in the United States.

*Manufactured home:* A structure, transportable in one or more sections, which is eight feet or more in width and greater than 400 square feet and which is built on a permanent, integral chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle" or "park trailer."

*Manufacturing, heavy:* An establishment whose principal purpose is the mechanical or chemical transformation of materials or substances into new products, including the bulk storage of raw materials, and which process may emit noise, vibration, dust, odor, or pollutants. Activities include manufacturing, assembly, and fabrication, including large scale or specialized industrial operations, processing, and compounding of semi-finished products from raw material in bulk form used in an industrial operation. Examples of heavy manufacturing include, but shall not be limited to, cement manufacturing, ship/boat manufacturing, and similar uses.

*Manufacturing, light:* An establishment whose principal purpose is the manufacturing, assembling, compounding, processing, packing, baling, repairing, storage, or distribution of products made from previously prepared basic materials. Examples include bond, cloth, cork, fiber, leather, paper, plastics, metals (not involving punch presses over 50 tons rated capacity), stones, tobacco, wax, yarns, or wood (except where sawmills or planing mills are employed). Uses deemed to qualify as light manufacturing include, but are not limited to, sign manufacturing, commercial bakeries, and similar uses.

*Marina facility:* Any structure or combination of structures, other than a single residential dock, located on or over the water surface of the navigable waters of the City, and is designed or used for the mooring of watercraft. Marina facilities are classified into the following subcategories.

(1) *Commercial marina:* Any facility or structure that is used for business or income producing purposes, through rental or any other means, the services of which are open to the general public, or which serves as an accessory facility to other rental, commercial, or industrial operations. It shall include, but not be limited to, docking for restaurants, hotels, motels, commercial fishing, shipping, or sales.

(2) *Noncommercial marina:* A marina facility designed to moor three or more watercraft that is intended to be used for private recreational or leisure purposes by persons or groups of persons who are residents of a development, or a nonprofit organization. General public usage and/or access is and will be prohibited by deed restrictions, easements, or other legally binding documentation except that a de minimis number of watercraft slips, not to exceed five percent, may be subject to rental agreements to nonresidents of the development associated with the

marina facility. A marina associated with and part of a development shall not be deemed a commercial marina if instruments of title, acceptable to the City, bind the developed property to the marina in a manner approved by the City. A marina facility with no more than five-day slips shall be considered a noncommercial marina.

*Marine service station:* A facility that provides fueling services for watercraft while they are located on or over the water.

*Market value:* Relating to flood damage protection, this term means the Property Appraiser's 'Just Value' of the structure, excluding the land, or an appraisal of the structure by a qualified independent appraiser. For the purposes of determining "substantial damage" per incident, the market value is the value prior to the damage occurring. For purposes of determining "substantial improvements", the market value is the value prior to the start of construction of each improvement.

*Market value:* The price at which a property will change hands between a willing buyer and a willing seller, neither party being under compulsion to buy or sell and both having reasonable knowledge of relevant facts. As used in this article, the term refers to the market value of buildings and structures, excluding the land and other improvements on the parcel. Market value may be established by a qualified independent appraiser, Actual Cash Value (replacement cost depreciated for age and quality of construction), or tax assessment value adjusted to approximate market value by a factor provided by the Property Appraiser.

*Master meter:* A single meter serving a multifamily residential or multi-unit commercial facility. This term includes, but is not limited to, master meters serving condominiums, apartments, mobile home parks, hotels, motels, travel trailer parks, shopping centers, and office buildings.

*Master Planned Development District (MPD):* The purpose of the Master Planned Development District, which takes the place of the former Planned Unit Development (PUD), former Planned Rural Development (PRD), former Village Center (VGC-1, VGC-2), and former Golf Course Community (GCC) Districts, is to provide opportunities for innovative planning and design. Although greater flexibility is given within this district, procedures are established in this LDC to ensure that master planned developments are consistent with sound and generally accepted land development practices and that added benefit is accrued to the community.

*Mechanical equipment:* Equipment such as air conditioning units, pool pumps, generators, and gas tanks.

*Median income:* The Flagler County median income is the figure published, and periodically updated, for the County as a whole by the U.S. Department of Housing and Urban Development.

*Medical marijuana treatment center:* Has the meaning provided in Article X, Section 29, Florida Constitution. Medical marijuana treatment center dispensing facilities are a component of said definition. Medical marijuana treatment center dispensing facilities are subject to licensure by the Florida Department of Health, pursuant to F.S. § 381.986 (2017) and implementing regulations.

*Microbrewery:* A facility licensed by the State for the production and packaging of malt beverages with low alcoholic content for distribution or for consumption on the premises, with a capacity of not more than 15,000 barrels per calendar year. Accessory uses may include tasting rooms with food sales or tours of the microbrewery.

*Mitigation:* An action or series of actions to offset the adverse wetland impacts. Mitigation usually consists of restoration, enhancement, creation, preservation, or a combination thereof. Mitigation also refers to the required replacement of protected trees that are removed for multi-family, institutional, commercial, and industrial development and residential lots.

*Mobile home:* A structure, transportable in one or more sections, which is eight body feet or more in width and which is built on an integral chasses and designed to be used as a dwelling when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. This structure is required to bear the insignia of the U.S. Department of Housing and Urban Development (HUD).

*Mobile home park:* A residential development on a parcel of land in one ownership providing rental spaces for two or more mobile homes on a long-term basis, with recreation and service facilities for the tenants.

*Mobile home park/subdivision, existing:* See *Manufactured home park/subdivision, existing*.

*Mobile home park/subdivision, expansion to an existing:* See *Manufactured home park/subdivision, expansion to an existing.*

*Mobile home park/subdivision, new:* See *Manufactured home park/subdivision, new.*

*Mobile home park/subdivision, substantially improved existing:* See *Manufactured home park/subdivision, substantially improved existing.*

*Mobile home space:* A plot of ground within a mobile home park designated for the accommodation of one mobile home or travel trailer.

*Mobile home subdivision:* A residential development designed for the accommodation of mobile homes on individually owned lots or in condominium or cooperative ownership, including recreation and open space areas held in common ownership, but not including developments serving tourists or vacation-oriented travel trailers, motor homes, campers, etc.

*Model home:* A finished single-family residential unit, including units in a multifamily structure and manufactured/mobile homes, for which a certificate of occupancy has been obtained and located in a residentially zoned district, but utilized as an example of a product offered for sale to purchasers by a realtor, builder, developer, or contractor.

*Molding:* An embellishment in strip form, made of wood or other structural material, used to decorate or finish a surface, such as the wall of a building or the surface of a door.

*Monotonous:* Tediously uniform or unvarying.

*Motel:* Any public lodging establishment which offers rental units with an exit to the outside of each rental unit, daily or weekly rates, off-street parking for each unit, a central office on the property with specified hours of operation, and a bathroom or connecting bathroom for each rental unit. Lodgings may consist of sleeping rooms only or may include cooking facilities also, but not intended for long-term occupancy.

*Mulch:* An organic soil additive or topping such as compost, wood chips, wood shavings, seasoned sawdust, bark, leaves, or pine straw, used to reduce evaporation, prevent erosion, control weeds, enrich the soil, and moderate soil temperature. Inorganic materials such as rock or chipped rubber are also considered mulch. Where the word mulch is used in reference to seeding requirements, it is deemed to be straw or hay.

*Multifamily:* See *Dwelling, multifamily.*

*Multi-tenant retail center* shall mean retail uses in one or more buildings consisting of two or more individual, unaffiliated tenants. Multi-Tenant Retail Centers include shared access connections to external roads, shared internal circulation, parking and external signs and master stormwater management areas. Multi-Tenant Retail Centers do not include outparcels.

*Multiuse building:* A building that provides for nonresidential uses on the first floor and residential living quarters located above the first floor.

*Munsell:* A standard color system that allows precise documentation of colors using an alphanumeric code to describe the color attributes of hue (pigmentation), value (lightness/darkness), and chroma (color intensity). To establish an objective means of color evaluation, the Munsell color system's lightness value shall guide the selection of acceptable colors.

*National Register of Historic Places:* The official listing of cultural resources or historic properties significant in American history, architecture, archaeology, engineering and culture, maintained by the Secretary of the Interior as established by the National Historic Preservation Act of 1966, as amended.

*Native plant:* See *Plant, native.*

*Navigable waters of the City:* Lakes, ponds, Intracoastal Waterway, saltwater canals, freshwater canals, streams, or any other body of water or waterway natural or artificially created, or any constructed channel or water body to said bodies of water or waterways, located within the City of Palm Coast that can be used for the navigability of watercraft. It is not the intent of the LDC to assert ownership of such waters, but it is the intent of this Ordinance to assert land use regulatory jurisdiction as set forth in the LDC.

*Nonconforming use:* A use of land existing lawfully at the time of the enactment of this regulation, or at the time of a zoning or use change and which does not conform with the regulations of the use district in which it is located.

*Nonresidential:* Used or intended for purposes other than as a dwelling unit.

*Nonresidential controlling master site development:* Commercial facilities developed on one or more lots and intended to function as a unit with shared services and facilities.

*Non-vehicular non-access easement:* An easement that limits or preludes legal access for any lot, tract, or parcel onto a street or adjacent property or between subdivision boundaries. See also, spite strip.

*Nursery, plant materials:* Land, building, structure, or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or plants offered for retail sale on the site, including products used for gardening or landscaping.

*Nursing home:* A home for aged, chronically ill, or incurable persons in which three or more persons, not of the immediate family, are received, kept, or provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

*Off-site improvements:* All land development improvements proposed to be built on land that is not part of the project property, except for work within a public road right-of-way immediately adjacent to the project limits of frontage on that road.

*Off-street loading space:* See Loading space, off-street.

*Off-street parking space:* See *Parking space, off-street.*

*One hundred (100)-year flood elevation:* See *Base flood elevation*.

*One-way:* A roadway or aisle on which traffic moves in only one direction.

*On-site:* Within the limits of the area encompassed by the tract area or parcel of record on which the activity is conducted.

*Open space:* The land area within a development which is retained in its natural condition or improved in a manner for the enjoyment of all persons owning property within the development. Open space includes, but is not limited to, tree and environmental preservation areas, waterbodies, and common area parcels, and is not developed with impervious surface unless it is common open space. Open space also includes those portions of the right-of-way that are pervious.

*Operation:* To cause or to allow a system to function.

*Operator:* Any person in whose name an electronic game promotion is conducted and in whose name a certificate of use is issued.

*Oriel:* A bay window supported from below by corbels or brackets.

*Outdoor display:* An outdoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product, or service.

*Outparcel:* For the purpose of this Code, an area meeting the minimum zoning district dimensional requirements and located within a shopping center that shares a common parking lot with other buildings and establishments within said shopping center, but separated from the principal building and establishments by parking or vehicular use area.

*Overhead utility facilities:* Communications and power lines installed through the air supported on and spanning between poles.

*Parapet:* A low wall projecting from the edge of a platform, terrace, or roof.

*Parasite sign:* See *Sign, parasite.*

*Parent parcel:* A tract or parcel of land that was lawfully created by either a plat or nonstatutory subdivision.

*Park trailer:* A transportable unit which has a body width not exceeding 14 feet and which is built on a single chassis and is designed to provide seasonal or temporary living quarters when connected to utilities necessary for operation of installed fixtures and appliances. [Defined in F.S. § 320.01 .]

*Parking:* The temporary, transient storage of motor vehicles used for personal transportation while their operators are engaged in other activities. It shall not include storage of new or used cars for sale, service, rental, or other purpose other than specified above.

*Parking angle:* The angle formed by a parking stall and the wall or centerline of the facility, ranging from 90 degrees (perpendicular) to 45 degrees.

*Parking design:* The layout and design of a parking facility based on standard criteria.

*Parking lot:* A surface area for parking off the street or beyond the right-of-way.

*Parking, parallel:* Spaces designed parallel to the curb of a street, a lot, or a parking structure wall.

*Parking, shared:* The approved use of the same off-street parking space for two or more distinguishable uses where peak-parking demand of the different uses occurs at different times of the day.

*Parking space:* A surface area reserved for temporary storage of one motor vehicle and connected to a street by a driveway.

*Parking space, off-stree*t: An off-street parking space shall consist of an area adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a street or alley and maneuvering room, but shall be located totally outside of any street, alley right-of-way, or highway.

*Parking stall:* The area, usually marked with distinguishing lines, in which one vehicle is to be parked; a parking space.

*Passenger station:* A facility at which passengers may board and alight from buses and/or trains, usually consisting of at least one covered structure or building for the use of waiting passengers.

*Pavilion:* A central or flanking projecting subdivision of a façade, usually accented by more elaborate decoration or a greater height and distinction of a roof line.

*Peak period:* The period of maximum parking activity, this can be by the hour, day of week, or seasonal.

*Pedestrian:* A person whose mode of transportation is on foot, including a person "walking a bicycle."

*Pediment:* A low-pitched triangular gable on the front of a building.

*Performance surety:* See *Surety, performance.*

*Periodic Overflow Parking:* Periodic overflow parking refers to designated, temporary, or secondary spaces used when primary parking lots are full or during high-demand events.

*Permanent commercial campground:* A parcel or plot of ground upon which two or more permanent (year-round) campsites are located, established and maintained for occupancy by camping units of the general public. Such campgrounds must meet the minimum state code requirements for sanitary facilities and potable water supply.

*Pervious area:* The total lot area left in a condition that permits full percolation of the stormwater including surface water bodies, wetlands, and retention areas.

*Pharmacy:* A retail use licensed under the Florida Statutes to dispense or sell prescription drugs, including, but not limited to medical marijuana treatment center dispensing facilities, as referenced in F.S. § 381.986 (11) as amended from time to time. The term does not include hospice services, medical and diagnostic laboratories, dental labs, medical and professional offices, outpatient care facilities, assisted living facilities, nursing homes, adult day care centers, child day care centers, schools, colleges, or other educational or health care institutions.

*Pier:* Wharf projecting into a body of water. In addition, an upright support member of a building designed and constructed to function as an independent structural element in supporting and transmitting building and environmental loads to the ground with a height limited to a maximum of three times its least lateral dimension.

*Pilaster:* A pilaster is a rectangular support which resembles a flat column. The pilaster projects only slightly from the wall, and has a base, a shaft, and a capital.

*Pile:* An upright support member of a building, usually long and slender in shape, driven into the ground by mechanical means and primarily supported by friction between the pile land the surrounding earth. Piles often cannot act as individual support units and require bracing to other pilings.

*Pitch:* The slope of a roof expressed in terms of a ratio of height to span.

*Pitched roof:* See *Roof, pitched.*

*Planned unit development (PUD):* A former zoning classification that allowed an area of land, controlled by a landowner(s), to be developed as a unified project and single entity for a group of structures such as residential or nonresidential or any combination thereof. See *Master Planned Development District.*

*Plant, native:* Means any plant species with a geographic distribution indigenous to all or part of the State of Florida.

*Plat:* A map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with all applicable sections of F.S. ch. 177 , and this LDC.

*Plinth:* A continuous course of stones that form the base or foundation of a wall.

*Political sign:* See *Sign, political.*

*Pollutant:* Includes, but is not limited to, dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.), heat, wrecked or damaged equipment, rock, sand and industrial (excepting the county's discharges), and agricultural waste discharged into the MS4, and including other materials which the City Manager or designee or federal or state regulatory agencies may deem appropriate to be included.

*Porch:* A roofed, open space that may be screened, attached to, or part of a building and with direct access to or from the building.

*Portal:* A doorway, entrance, or gate, especially one that is large and imposing.

*Portico:* A porch or walkway with a roof supported by columns, often oriented at the entrance of a building.

*Poultry:* Any chickens, turkeys, ducks, or geese.

*Potable water:* The water that is satisfactory for drinking, culinary, and domestic purposes and that meets the quality standards of the Florida Department of Environmental Protection.

*Preconstruction conference:* A meeting that is held between City staff and the contractor or developer after the issuance of a development order, but prior to the issuance of a building permit for the purpose of coordination of project and assurance of compliance with City regulations.

*Preliminary site plan:* An illustration of the details of development of areas such as, but not limited to, commercial, industrial, recreational, and multifamily residential uses not being platted. The required submittals and processing procedures shall be similar to those provisions for final platting to the extent deemed applicable for the proposed use by the Land Use Administrator.

*Preservation:* The identification, evaluation, recordation, documentation, analysis, recovery, interpretation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, or reconstruction of historic properties.

*Principal building:* See *Building, principal.*

*Private club:* See *Club, private.*

*Project:* A particular development on an identifiable parcel of land.

*Property:* For the purpose of utilities, the real property owned or controlled by an applicant for which water service capacity allocation, wastewater service capacity allocation, or both is requested.

*Public facility baseline statement:* The concurrency baseline statement is an assessment of public facility available capacity anticipated for the reporting period.

*Public use:* See *use, public.*

*Qualified environmental professional:* A professional entity (may be an individual or company/firm) having appropriate scientific background and experience in the evaluation of wetland systems, delineation of jurisdictional wetlands, and listed flora and fauna in the State of Florida and the assessment of central Florida ecological communities.

*Quoin:* A stone or brick forming an exterior angle of a masonry wall that is differentiated from adjoining surfaces by material, texture, color, size, or projection.

*Rain garden:* On-site retention of stormwater using vegetated depressions engineered to collect, store, and infiltrate runoff. Also, known as Bio-Filter and an LID IMP.

*Range (appliance):* A single kitchen appliance that combines both a cooktop (stovetop) and an oven into one unit.

*Reclaimed water:* Water, treated wastewater, or wastewater effluent that has been appropriately treated and which, as a result of the treatment of wastes, is suitable and usable for direct beneficial uses or a controlled use by and for public agricultural, commercial, residential or industrial developments, projects or purposes including, but not limited to, irrigation purposes in green areas of developments or other appropriate areas; water that has received at least secondary treatment and is reused after flowing out of a wastewater treatment plant.

*Reclaimed water distribution system:*

(1) Reclaimed water mains.

(2) Sub mains.

(3) Transmission lines.

(4) Storage and pumping facilities.

(5) Valves.

(6) House services.

(7) Meters.

(8) Other appurtenances.

*Reclaimed water system:* As used interchangeably, means any and all reclaimed water production, transmission, treatment, and distribution facilities currently owned, operated, managed, controlled, or otherwise used or hereafter owned or operated by the City. Such system includes any and all improvements, extensions, or additions thereto hereafter constructed or acquired either from the proceeds of bonds or from any other sources, together with all property, real, personal, or mixed, tangible or intangible, currently or hereafter owned, operated, managed, controlled, or otherwise used in connection therewith.

*Recreation, indoor:* An indoor public or private establishment designed and equipped for the conduct of sports and leisure time activities except for electronic game promotions. Some examples include bowling alleys, game rooms, theaters, gymnasiums, pool halls, and skating rinks.

*Recreation, outdoor:* Any site where the principal use is the provision of outdoor amusements, sports, games, athletic facilities, or other outdoor recreational facilities and/or services. This term includes botanical gardens, zoological gardens, skeet and gun clubs, golf driving ranges, miniature golf, go-cart tracks, drive-in theaters, aquatic centers, and water parks, but does not include golf courses or public parks and recreational facilities.

*Recreational vehicle:* Relating to flood damage protection, this term means a vehicle that is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Redevelopment:* In addition to the definition of "development" provided in F.S. § 380.04 , this term shall mean a substantial or material change in the use or character of an existing development property including, but not limited to, alterations, expansions, or renovations to structures, paved areas, and other property fixtures and features requiring a building permit.

*Regulated use (or regulated activity):* Any publicly or privately owned operation within a wellhead protection zone that handles, sells or otherwise distributes, produces, uses, stores, or disposes of a regulated substance, unless specifically exempted.

*Remedy a violation:* See *Violation, remedy of*.

*Remove* or *removal:* Actual or effective removal through killing, damaging or destroying any trees listed as protected.

*Replat:* A map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with all applicable sections of F.S. ch. 177 , and this LDC.

*Required site development improvements:* See *Improvements, required site development*.

*Required subdivision improvements:* See *Improvements, required subdivision*.

*Residential:* Used or intended for use as a dwelling unit and includes uses accessory to a dwelling unit.

*Restaurant, fast-food/fast-casual:* An eating establishment where customers order and receive their food and/or beverages at a counter, select individual items prepared in front of the person, serve

themselves buffet style, which include a drive-in window, or service is via drive-up service. Customers may or may not consume the food or beverages on-site.

*Restaurant, sit-down:* An eating establishment where food and/or beverages are served by waitresses or waiters to patrons seated at booths or tables. A sit-down restaurant may also provide accessory drive-through and walk-up services. If the business also sells alcoholic beverages, the sale of food products must represent at least 51 percent of the facility's total sales, or the business shall be considered a drinking establishment.

*Retail fulfillment distribution center:* A building where an e-commerce retailer can quickly deliver merchandise to online shoppers for pickup, or where the merchandise is transferred to a retail operator or local delivery service for rapid delivery to shoppers' homes or businesses.

*Reuse:* The deliberate application of reclaimed water, in compliance with the Florida Department of Environmental Protection and St. Johns River Water Management District rules, for a beneficial purpose.

*Revetments:* Wall with severe slope away from the base.

*Right-of-way:* Land in which the City owns the fee or has received a dedication for, or has an easement devoted to, or required for, the use of a public road, the use of stormwater management, or any other public use, including for medians, sidewalks, and driveways.

*Riverine:* Relating to flood damage protection, this term means relating to, formed by, or resembling a river including, but not limited to, tributaries, stream, brook, etc.

*Road:* Means and shall include streets, alleys, highways, sidewalks, bike paths, driveways, medians, and any other ways open or unopened to travel by the public, including the road bed, right-of-way and all culverts, drains, ditches, inlets, stormwater facilities, embankments, bridges, retaining walls, guardrails or other appurtenances necessary for the maintenance of travel.

*Roof:* The outside top covering a building or structure.

*Roof, flat:* A roof having no slope, or one with only a slight pitch to drain rainwater.

*Roof, gable:* Roof with gabled ends that slopes in two opposite directions from the ridge.

*Roof, gambrel:* Roof sloped in two opposite directions from the ridge, with each surface divided into two sections with different pitches. Lower section of the roof slopes steeply to the outside walls.

*Roof, hip:* A roof with sloping ends and sides. In addition, external angle formed at the intersection of two adjacent sloped roof sections.

*Roof, mansard:* A mansard roof has two slopes on each of the four sides. The lower slope is steeper than the upper slope. Dormers are often set in the lower slope. The upper slope is usually not visible from the ground.

*Roof, pitched:* A roof having one or more slopes.

*Roof, shed:* A roof with one slope.

*Rooming house:* See *Boarding home*.

*Runoff (applies only to Chapter 9):* The draining away of water (or substances carried in it) from the surface of an area of land, building, or structure.

*Runoff (does not apply to Chapter 9):* Relating to flood damage protection, that portion of precipitation that is not intercepted by vegetation, absorbed by the land surface, or evaporated, and thus flows overland into a depression, stream, lake, or ocean (runoff, called immediate subsurface runoff, also takes place in the upper layers of the soil).

*Sand dunes:* Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

*School:* A facility used for education or instruction in any branch of knowledge, and including the following: elementary, middle, and high schools, whether public or private; colleges, community colleges

and universities; vocational and professional schools giving instruction in vocational, professional, technical, industrial, musical, dancing, dramatic, artistic, linguistic, scientific, religious or other special subjects. This term does not include childcare centers if separate from elementary schools.

*Scoring:* Scratching or roughening the surface of a member or material to create a rough finish or key for subsequent coats. To cut a narrow channel or groove in the surface of a material to allow for deeper cuts without shattering or splintering the face of the material.

*Screen planting, medium:* A 30-inch-high planting of continuous non-deciduous shrubs, with appropriate spacing, intended to partially block the view of something from adjacent properties or a rights-of-way.

*Screen planting, short:* A two-foot-high planting of continuous non-deciduous shrubs, with appropriate spacing, intended to partially block the view of something from adjacent properties or a rights-of-way.

*Screen planting, tall:* A five-foot-high planting of continuous non-deciduous shrubs, with appropriate spacing, intended to primarily block the view of something from adjacent properties or a rights-of-way, with opacity of at least 60 percent at time of planting that achieves 80-percent opacity within two years.

*Seat:* For purposes of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units, installed or indicated, for each 24 lineal inches of benches, pews, or space for loose chairs.

*Seawall:* A structure built between a water body on one side and land on the other side.

*Semipublic use:* See *Use, semipublic*.

*Septic tank:* The sewage disposal system in which effluent is flushed into an underground tank and allowed to slowly absorb into the surrounding soil.

*Service use:* See *Use, service.*

*Setback:* The area between a property line and a line parallel thereto at a distance equal to the appropriate setback distance. (See *Yard* and *Lot line*)

*Setback line:* The minimum distance prescribed by a zoning district between any property line and the foundation of a building or structure, or from the property line to the edge of a deck or concrete pad. A line within a lot parallel to a corresponding lot line, which is the boundary of any specified front, side or rear setback/yard, or the boundary of any public right-of-way whether acquired in fee, easement, or otherwise, or a line otherwise established to govern the location of buildings, structures, or uses. (See *Yard* and *Lot line*)

*Setback, 25-foot floodway:* The area between the outer boundary of the regulatory floodway associated with natural named wetland systems including, but not limited to Big Mulberry Branch and Bulow Creek shown on the FIRM and a line parallel thereto at a distance of 25 feet. The purpose of the 25-foot floodway setback is to minimize encroachments to protect floodplain storage and natural floodplain functions.

*Sewers, public or community:* An approved sewage disposal system that provides a collection network and disposal system, and central sewage treatment facility for a single development, community, or region.

*Sexually oriented business:* A commercial bodily contact establishment, escort service, or sexual encounter business. A business shall be a sexually oriented business, whether services are provided on the premises of an establishment or on an out call basis at any other place and regardless of whether such business is licensed under this LDC. A business with a sexually oriented business license shall be presumed to be a sexually oriented business. An individual operating a sexually oriented business is subject to the provisions of this LDC notwithstanding the fact that services are being provided at or from a residence, motor vehicle, vessel, or any other location. A license pursuant to this LCD is required unless the individual is a paid employee for whom taxes and social security payments are withdrawn and paid by

the licensed establishment, worker records are maintained, and the individual is not an independent contractor.

*Shade tree:* See *Tree, shade*.

*Shared parking:* See *Parking, shared*.

*Shed roof:* See *Roof, shed*.

*Shopping center:* An integrated group of primarily retail-oriented commercial establishments that is planned, developed, owned and managed as a unit.

*Shutters:* Wood, metal, or plastic panel on either side of a window. May be hinged, but commonly fixed in position. Originally used as a protective covering for windows when swung closed.

*Sight distance:* The minimum distance that allows a vehicle traveling at a designed speed to be able to stop before reaching a stationary object in its path. Typically, the design sight distance allows a below-average driver to stop in time to avoid a collision.

*Sight triangle:* A triangular-shaped area at intersections that provides a clear line of sight for drivers at a vertical level between two feet and seven feet above the average grade at the centerline of the right-of-way. Two sides of the triangle shall be the edges of pavement along each roadway from their intersection with their lengths based on the type of roadways, and the third side being a line connecting the ends of the first two lines.

*Sign:* Any letters, numbers, symbols, graphics, pictures, or figures, or combination thereof that are erected, constructed, placed, or attached on a structure, ground, or body which identify, advertise, or direct attention to a product, business, institution, place, person, or event, or any other communication and that can be seen from the public right-of-way or public waterway. When not modified by the terms "structure" or "face", the term "sign" shall include all parts of the sign and its supporting structure.

*Sign, A-frame:* A type of sign composed of two boards set up in a triangle shape hinged along the top.

*Sign, abandoned:*

(1) Any sign face which advertises a business no longer conducted or product no longer sold. In making the determination that a sign advertises a business no longer being conducted, the Land Use Administrator shall consider the existence or absence of a current occupational license, utility service deposit or account, use of the premises, and relocation of the business.

(2) Any sign structure that not used for business purposes for over six months and that is nonconforming according to existing codes regarding height, setback, or sign area.

*Signage program:* A graphic representation showing a comprehensive detailed presentation of all signage proposed for a particular development to include style, color, location, size, and material.

*Sign, animated:* Any sign of which all or any part thereof revolves or moves in any fashion whatsoever; and any sign which contains or uses for illumination any light, lights or lighting device or devices which change color, flash or alternate, show movement or motion, or change the appearance of said sign or any part thereof automatically. Animated signs also include electronic, LCD and LED signs if they are using movement and change of light to depict action or to create special effects or scenes. Also, known as Automatic Electric Changing Signs (ACS). Does not include manually changeable copy sign.

*Sign area:* The area of a sign face (which is also the sign area of a wall or other sign with only one face) shall be computed by means of the smallest square, circular, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display. This includes any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. The sign area does not include any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the LDC and is clearly incidental to the display itself.

*Sign area, aggregate:* The architectural area around the copy of the sign. The maximum aggregated sign area is determined by calculating sign area times two and is exclusive of the sign area.

Awning Sign

*Sign, awning:* Any sign consisting of information painted on, sewn on, imprinted on, or attached to the surface of an awning or canopy.

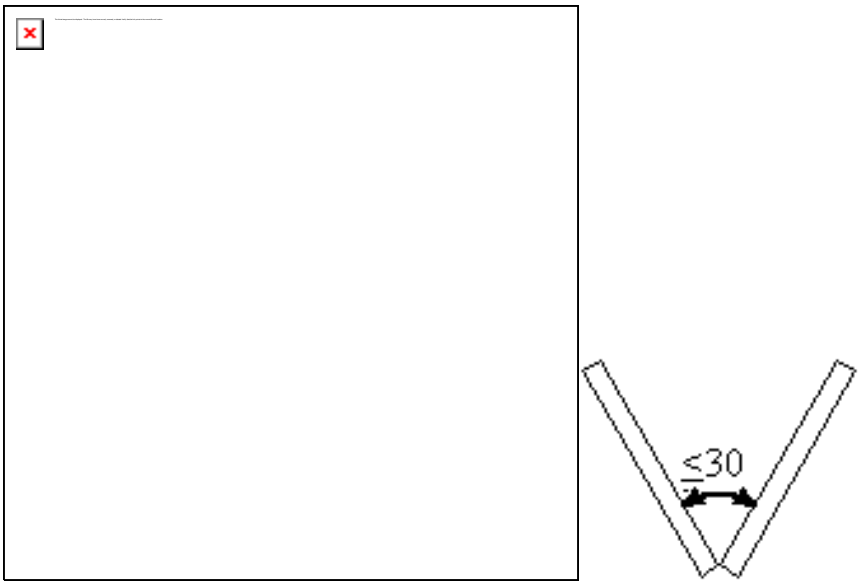
~~*Sign, banner:* A sign either enclosed or not enclosed in a ridged frame and secured or mounted to allow movement caused by atmosphere. Flags are not banners.~~

*Sign, commercial:* A sign intended to promote the commercial or economic interests of the owner or the products/services offered on the site.

*Sign, digital:* Any sign which has the capability of changing message content through the use of an electronically controlled device.

*Sign, directional:* Any sign intended to provide direction to the public, including signs that direct traffic onto or within a site, identify restrooms, parking areas or spaces, freight entrances, or other facilities for the convenience of the public.

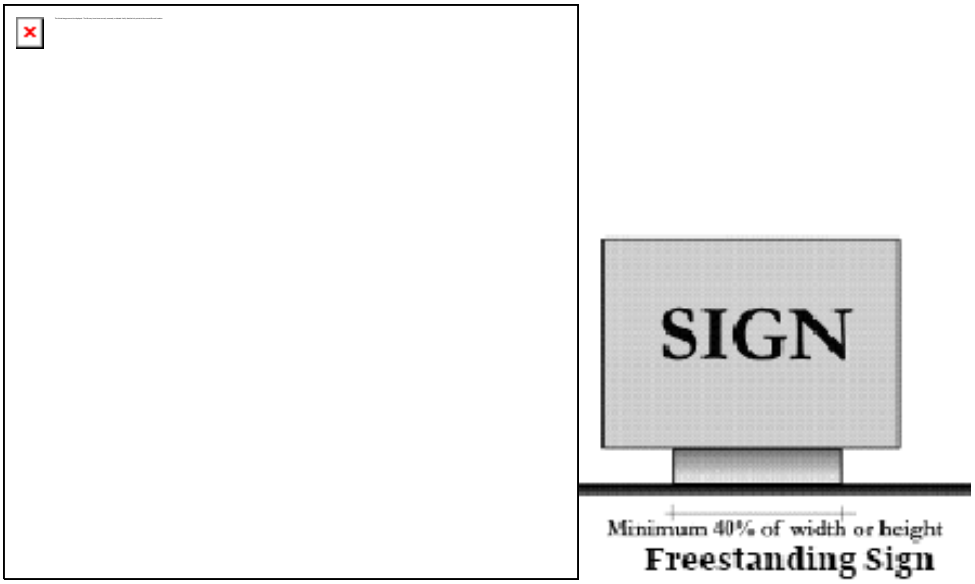
*Sign, directory:* A sign that provides a listing of the occupants of a multitenant center and their suite/building numbers. Directory signs are not intended to be visible from the public right-of-way, but to give direction to customers already within the site.




*Sign, double faced:* A sign with two faces that are no more than three feet apart at their closest point, or placed at an angle of 30 degrees or less. Double-faced signs shall be considered one sign.

*Sign, electronic display type:* A sign for presentation of information for visual reception, acquired, stored, or transmitted in various forms, where the input information is supplied as an electric signal, and uses a light source, LED (light emitting diodes), bare electric bulbs, luminous tubes, fiber optic, or other combination of light source to create the message. In addition, signs that appear protected, or are intermittently or intensely illuminated, or of a traveling, scrolling, or sequential light type, or contain, or are illuminated, or flashing light.

*Sign, free expression:* A sign, not in excess of four square feet in size (area) where the top of the sign is not more than three feet off the ground, if freestanding, and communicating information or views of concern to the owner of the sign, or containing any other noncommercial message that is otherwise lawful.



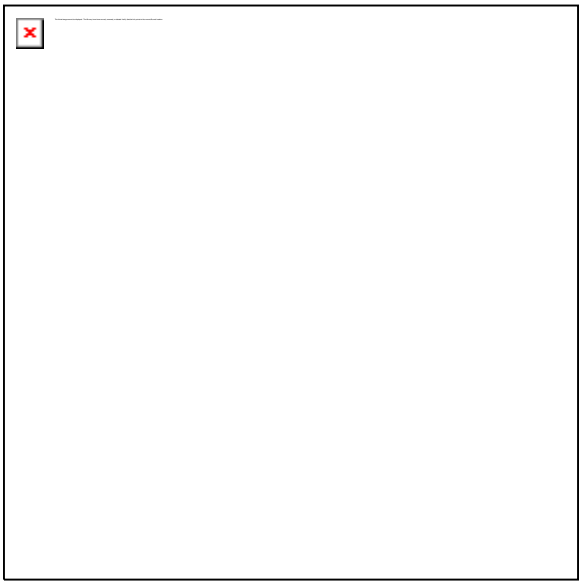
*Sign, freestanding:* A monument sign supported by a sign structure in the ground and that is wholly independent of any building, fence, vehicle, or object other than the sign structure for support. The width of the base must be less than the width of the display area but must be a minimum of 40% of the width of the sign face.

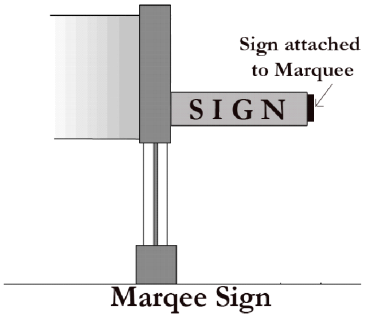
*Sign height:* The vertical distance as measured from the finished grade to the highest point of the sign structure. Finished grade is the newly established grade at the base of the sign after construction of the sign, exclusive of any filling, berming, madding, or excavating solely for the purpose of locating the sign.

*Sign, identification:* A sign that indicates the name and type of business or service, residents, or the name of the development located on the site where the sign is located including street address, phone number, and graphic of business logo.

*Sign, illuminated:* A sign that uses artificial light, either internal or external to the sign faces, to draw attention to the sign or otherwise increase its visibility.

*Sign, machinery and equipment:* Graphics and trademarks on vending machines, gas pumps, and machinery customarily used outside of buildings. Also, includes signs on public works and/or construction equipment (bulldozers and such) that have the brand/make of the machinery or equipment.





Marqee Sign

*Sign, marquee:* A sign attached to or hung from a marquee that is a permanent projecting structure protruding from the entrance of a building wall to provide shelter and display advertising.

*Sign, manually changeable copy sign:* The message on the sign is changed manually (without the use of an electric signal) using individual letters, numbers, phrases, or symbols. Examples include reader boards with manually changeable letters or changeable pictorial panels.

*Sign, monument:* ~~See *Sign, freestanding.*~~A durable ground level, self-supporting sign with a solid foundation or base that is at least as wide as the sign's display area.

*Sign, non-commercial:* Signs which display opinions, points of view, or contain political, civic, public service, religious, or ideological messages.

*Sign, off-site advertising:* A sign identifying, advertising or directing the public to a business, merchandise, service, institution, residential area, entertainment or activity which is located, sold, rented, based, produced, manufactured, or taking place at a location other than on the site on which the sign is located.

*Sign, parasite:* Any sign not exempted by this Code, for which no permit has been issued, and which is attached to another sign.

*Sign, pole:* A freestanding sign supported by a pole, a column, or other fabricated support member without any type of secondary support. Pole/pylon signs typically provide clear view between the sign and the ground.

*Sign, political:* Any sign used solely to present information suggesting a candidate's suitability for elected public office or presenting an issue to be voted upon in the upcoming legally recognized election at the Federal, State, County, or City level or for special districts.

*Sign, portable:* A sign that has no permanent attachment to a building or to the ground by means of a footing including, but not limited to, an A-frame or sandwich board sign; a sign with wheels designed to be pulled or towed on a trailer or similar device, pull attachments, hot air or gas filled balloons; umbrellas used for advertising; signs mounted for advertising purposes on a vehicle that is parked and visible from the public right-of-way, sidewalk, or curb.

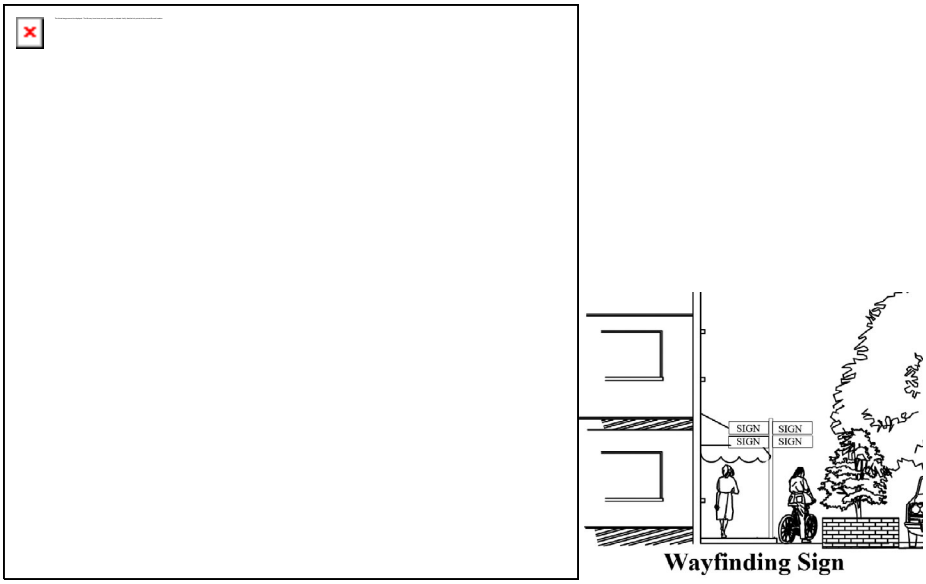
*Sign, projecting:* A sign that is wholly or partly dependent upon a building for support and that projects horizontally more than 12 inches from such building.

*Sign, roof:* A sign painted on or affixed to the roof of a building and primarily supported by that roof structure, except fascia signs.

*Sign, snipe:* Any sign or any material when such sign is attached in any way to trees, utility poles, motor vehicles, trailers, waterborne craft, or other objects.

*Sign, temporary:* A sign erected for two weeks or less to advertise or identify transitory events unless specifically permitted for a longer period by this LDC.

*Sign, wall:* A sign attached to a wall of a building or structure so that the wall forms the supporting structure or becomes the background of the sign. For the purpose of Chapter 12, wall signs include awning and projecting signs.



Wayfinding Sign

*Sign, wayfinding:* A directional sign placed in the public-right-of-way to advertise the location of one or more business or facilities in the immediate area.

*Sign, window:* A sign posted, painted, placed, or affixed in or on the interior or exterior of a window/glass door, or placed within three feet of a window/glass door pane, or displayed to be visible from the exterior of the building.

*Silt fence:* A temporary sediment barrier consisting of a filter fabric stretched across, and attached to, supporting posts and entrenched.

*Site:* The entire lot on which a use is or will be located and that is otherwise subject to the provisions of the LDC.

*Site, building:* Any lot or parcel, or group of lots or parcels, occupied or intended for development as a unit, whether or not as part of a larger development site. Building site area does not include surface waterbodies, floodways, or wetlands.

*Site characteristics:* The physical features of a site such as shape, area, topography, soil conditions, and access.

*Site plan:* A plan, to scale, showing uses and structures proposed for a parcel of land as required by the regulations involved. Includes lot lines, streets, building sites, reserved open space, buildings, landscape features—both natural and manmade—and the locations of proposed utility lines.

*Site plan completion surety:* See *Surety, site plan completion*.

*Small box discount store:* A retail store that is 16,000 square feet or less in size, which offers for sale a variety of convenience shopping goods and continuously offers the majority of the items in their inventory for sale at a price lower than traditional retail stores. Small box discount store does not include a pharmacy; and does not sell gasoline or diesel fuel, or specialty items and food items as a primary product (i.e., greeting cards, consignment, meats, seafood, cheese, or oils and vinegars).

*Small quantity generator:* A small quantity generator, as defined by the Resource Conservation and Recovery Act of 1976, 40 Code of Federal Regulations 260, is one that generates less than 1,000 kilograms (2,200 pounds or 250 gallons) of hazardous waste in a calendar month.

*Smart irrigation controller:* A weather-based irrigation device that utilizes prevailing weather conditions, current, and historic evapotranspiration, soil moisture levels and other relevant factors to adapt water applications to meet the estimated needs of plants and lawns. The controller shall estimate or measure depletion of available plant moisture to operate an irrigation system that replenishes water as needed while minimizing excess.

*Special exception:* A land use that is not similar in nature to the uses permitted in the district for which application is made (or in any district), but which is desired in the community, with appropriate controls, where a suitable location is available.

*Special flood hazard areas:* An area in the floodplain subject to a one-percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, A1-A30, AE, A99, AH, V1-V30, VE or V.

*Special use:* Includes utilities, transportation terminals, and facilities.

*Spill:* See *discharge.*

*Spite strip:* A private easement that limits or precludes legal access for any lot, tract, or parcel onto a street or adjacent property or between subdivision boundaries.

*Stall:* The area, usually marked with distinguishing lines, in which one vehicle is to be parked; a parking space.

*Standing seam, metal:* A standing seam roof is constructed of many interlocking panels that run vertically from the roof's ridge (the top of the roof) to the eave. The interlocking seam where two panels join together is raised above the roof's flat surface, allowing water to run off without seeping between panels.

*Stoop:* A raised platform approached by steps at the entrance of a house.

*Stormwater:* Water collected or collecting as a result of natural precipitation.

*Stormwater management system:* A system which is designed and constructed or implemented to control discharges that are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use, or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution, or otherwise affect the quantity and quality of discharges from the system.

*Story:* That portion of a building included between the upper surface of a floor and upper surface of the floor or roof next above.

*Stream:* Any river, creek, slough, or natural watercourse in which water usually flows in a defined bed or channel. It is not essential that the flowing be uniform or uninterrupted. The fact that some part of the bed or channel shall have been dredged or improved does not prevent the watercourse from being a stream. Also, a body of water flowing in a natural surface channel. Flow may be continuous or only during wet periods. Streams that flow only during wet periods are termed "intermittent streams."

*Street tree:* See *Tree, street*.

*Stringcourse:* A horizontal band or molding set in the face of a building as a design element.

*Striping:* Painted lines delineating stalls and circulation patterns.

*Structure:* Anything constructed, installed or portable, the use of which requires a location on a parcel of land, such as buildings, manufactured homes, mobile homes, fences, billboards, swimming pools, poles, pipelines, transmission lines, advertising signs, a gas or liquid storage tank, seawall, bulkhead, revetment, or other man-made facilities or infrastructure. For the purposes of Subsection 4.01.05—Residential Docking Facilities along Saltwater and Freshwater Canals (and Intracoastal Waterway, as applicable) and Section 4.16—Marinas, this term means anything constructed or otherwise located or operated on or over water, extended over water, or affixed to something that is or will be located on the ground and covered by water, or is located on land and is an essential part of the operation or an integral system of the marina such as, by way of example only, fuel and electrical systems.

*Structure, existing and building, existing:* Relating to flood damage protection, this term means any structure or building for which the "start of construction" commenced before February 5, 1986 or standard based upon specific technical base flood elevation data that establishes the area of special flood hazard.

*Structure, principal:* The main building in which is conducted the principal use of the property on which such building is located.

*Substantial damage:* Damage of any origin sustained by a building or structure whereby the cost of restoring the building or structure to its before-damaged condition would equal or exceed 50 percent of the market value of the building or structure before the damage occurred. The term also includes flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

*Substantial improvement:* Any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure taking place during a ten-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the building or structure before the improvement or repair is started. The period of accumulation begins when the first improvement or repair of each building is permitted subsequent to August 19, 2008. If the structure has incurred "substantial damage," any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions.

(2) Any alteration of a historic structure provided the alteration will not preclude the structure's continued designation as a historic structure.

*Summer kitchen:* See *Kitchen, summer.*

*Supply well, public:* A well that is constructed for purposes of extracting groundwater to the surface, by mumping or natural flow, and the groundwater from such excavation is to be used for human consumption assuming it has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the calendar year.

*Surety:* A pledge or formal promise made in the form of a cash deposit, bond, or letter of credit to secure against loss, damage, or default; a guarantee.

*Surety, maintenance:* Surety that guarantees that the installed improvements will remain in operable condition and not have any defects in material or workmanship for a period of 12 months after satisfactory completion of installation.

*Surety, performance:* Surety that guarantees that the cost of the infrastructure improvements necessary to support the subdivision to be platted is funded to complete the improvements if the property owner cannot complete them.

*Surety, site plan completion:* Surety that guarantees that perimeter landscape buffers will be constructed and property fenced if construction does not proceed to completion.

*Surface water (applies only to Chapter 9):* Water upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be classified as surface water when it exits from the spring onto the earth's surface [F.S. § 373.019 (21).]

*Surface water management system:* A dam, impoundment, reservoir, appurtenant work or works, or any combination thereof. The terms "surface water management system" or "system" include areas of dredging or filling as those terms are defined in F.S. §§ 373.403 (13) and 373.403 (14).

*Surface water management system:* A stormwater management system, dam, impoundment, reservoir, appurtenant work or works, or any combination thereof. The terms "surface water management system" or "system" include areas of dredging or filling as those terms are defined in F.S. §§ 373.403 (13) and 373.403 (14), (Subsection 40C-4.021(26), FAC).

*Swale:* Depression or channel in the ground, often designed for channeling surface water.

*Temporary irrigation system:* An interim system, including surface distribution elements (hose, pipe, etc.), that shall be removed once the landscaping is established or once it is no longer needed.

*Temporary uses or structures:* Any use or structure placed on a parcel of land for a period of short duration.

*Threatened species:* Those animal species listed in Section 39-27.004, FAC and those plant species which are listed as threatened in 50 Code of Federal Regulations 17.12.

*Townhouse:* Three or more attached single-family dwelling unit constructed in a series or group of attached units with property lines separating such units.

*Traffic circulation:* A traffic flow pattern, such as a two-way or a one-way, for an on-street system or off-street parking facility.

*Traffic control devices:* Signs, pavement markings, and signal lights designed and installed to aid in safe and effective flow of motor vehicles across roads and parking lots.

*Traffic flow:* The pattern of traffic movement through an area or through a parking facility.

*Transom:* A horizontal crosspiece over a door, or between a door and a window above it, or a small hinged window above a door or another window.

*Transportation center:* A designated area for public transportation such as buses, taxicab stand, etc.

*Travel trailer:* A recreational vehicle used for temporary housing by individuals and families during travel. This category, in this LDC, is assumed to include also campers, camping trailers, motor homes and

smaller mobile homes (up to a length of 35 feet, exclusive of hitch, and eight feet in width), capable of being towed by a passenger motor car and complies with F.S. § 320.01 (1)1.

*Travel trailer park:* A development for the accommodation of tourists or vacationers of short-term basis, providing rental spaces for each individual trailer, camper, motor home, etc., and recreation and service facilities for the use of the tenants. This designation does not permit or allow permanent residents.

*Tree:* Any living, self-supporting woody perennial plant which at maturity attains a trunk diameter of at least four inches or more when measured at four and one-half feet above ground level and which normally attains an overall height of at least 15 feet, usually with one main stem or trunk and many branches.

*Tree protection zone (TPZ):* The circular area usually under the canopy of a tree to be protected where access, construction activities, driving, parking, storage, grubbing, fill dirt, trenching, and digging is restricted by a sturdy but temporary fence. The radius of the TPZ is equal to one foot of TPZ radius for each inch of diameter of the tree to be protected.

*Tree, shade:* Any tree attaining a mature height of over 35 feet and a spread of 35 feet. Other trees may be acceptable upon approval of the Land Use Administrator including, but not limited to, the species listed per City standards.

*Tree, street:* Any tree growing in the public rights-of-way or on private property that is within five feet of the rights-of-way line. The tree must be a shade tree if no overhead utility conflicts exist.

*Tree, understory:* Any tree that has a mature height of less than 35 feet or is a slower growing species, as determined by the Land Use Administrator, including, but not limited to, certain species per City standards.

*Trim:* To reduce, shorten, or diminish gradually a plant or parts of a plant without altering the natural shape using proper horticultural and arboricultural techniques.

*Trim color:* Refers to a complementary color used for the trim of architectural components such as window trim, windowsills, doorframes, cornice, and banding.

*Turbidity barrier:* A floating geotextile material that minimizes sediment transport from a disturbed area adjacent to or within a body of water.

*Turning radius:* The pavement or ramp width necessary to permit a vehicle to complete a turning maneuver.

*Two-way:* A roadway or aisle on which traffic moves in the opposite, yet parallel, direction.

*Underground utility facilities:* Communications and power lines installed below the ground surface within road rights-of-ways or easements.

*Understory tree:* See *Tree, understory.*

*Use:* The specific purpose(s) for which land or a building is designated, arranged, intended, or for which it is or may be occupied or maintained.

*Use, change in:* Substitution of one thing for another specifically regarding use of land or use of a building.

*Use, conforming:* Any use of a structure or land that is a permitted or approved provisional or special use in the district in which the structure or land is situated and which conforms to the regulations of that district and all other regulations as adopted by the City.

*Use, discontinued:* A use that is interrupted or in which there is a break in continuity regardless of the intent of the owner or operator.

*Use, legal nonconforming:* A use that lawfully occupied a building or lands at the time this LDC was adopted and that does not conform to the use regulations of the district in which it is located.

*Use, nonconforming:* The use of a building, structure, or parcel of land not in compliance with the regulations as adopted by the City.

*Use, principal:* The main or primary purpose for which a structure or lot is designated, arranged, or intended, or for which it may be used, occupied, or maintained under this LDC.

*Use, public:* The use of land, water, or building by a municipality, public body or board, commission, or authority, or federal, state, or county government, or any agency thereof for a public service purpose.

*Use, semipublic:* Includes churches, museums, and organizations operating as a nonprofit activity serving a public purpose or service and includes such organizations as noncommercial clubs and lodges, theater groups, recreational, conservation, and neighborhood associations, and cultural activities.

*Use, service:* An establishment where the principal use is the provision of services for individuals, business, and government establishments, and other organizations; as opposed to the selling of goods or merchandise. This term includes automotive services, business services, major vehicle service, and personal services, but does not include retailing uses, restaurants, residential social service facilities, or any industrial uses.

(1) *Service, automotive:* Where the provision of services is focused on the repair and maintenance of motor vehicles. Examples of automotive services include detailing, mechanical or interior repair, tune-ups, tire sales and service, and stand-alone car washes, and similar uses.

(2) *Service, business:* Where the provision of services is focused on support to professional office establishments. Some examples include copy centers, secretarial service, computer rental-repair service, internet service, and similar uses.

(3) *Service, major:* Vehicle or machinery service activities that do not meet the definition of automotive service shall be classified as major service. Examples include bus, truck or train terminal/maintenance facilities, commercial or industrial machinery repair shops, and body and paint shops.

(4) *Service, personal:* A service use primarily engaged in providing services involving the care of a person, his or her apparel, pets, or small appliances. Some examples include barbershops, beauty shops, dance studios, funeral homes, pet grooming, laundromats, dry cleaners (drop-off and pick up only), health and fitness clubs, caterers, window tinting, video tape/disc rentals, consumer goods rental and service centers, and similar uses.

*Use, temporary:* A use established for a fixed period of time with the intent that such use will terminate automatically upon expiration of the fixed time period.

*Utility agreement:* A written agreement between the City and a property owner that establishes the terms and conditions pursuant to which the City will provide water and/or wastewater service.

*Utility facilities* or *utility installations:* By way of illustration and not limitation, all equipment, fixtures, pumps, lines, mains, manholes, lift stations, pumping stations, laterals, service connections, and any and all appurtenances thereto together with all real property, easements and rights-of-way necessary to provide water and wastewater service to property whether located on-site or off-site.

*Variance:* A modification of the strict terms of the regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the regulation would result in unnecessary and undue hardship. As used in this regulation, a variance may be authorized only for area and size of structure, size of yards, open spaces, and flood damage protection regulations. The establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the district or uses in an adjoining district.

*Variance, floodplain:* Relating to flood damage protection, this term means a grant of relief from the requirements of Section 10.02 or the flood resistant construction requirements of the Florida Building Code that permits construction in a manner otherwise prohibited by Section 10.02 or the flood resistant construction requirements of the Florida Building Code.

*Vegetation:* Plant material, including trees, shrubs, groundcover, and vines, that are either existing or planted on a site.

*Vehicle:* Any device or conveyance for transporting persons or property over the public streets, including, but not limited to, any automobile, motorcycle, motor truck, trailer, van, semi-trailer, tractor-trailer combination, commercial vehicle or trailer, recreational vehicle or trailer, golf cart, and boat or boat trailer but it shall not include tractors, construction equipment or machinery, or any other device used to perform a job except as stated above.

*Vehicle fueling position:* A location next to a pump island at a service station or convenience store where a single vehicle obtains fuel simultaneously while other vehicles are being fueled. Typically, one fuel dispenser will provide two vehicle fueling positions located on opposite sides of the pump island.

*Vehicle repair:* The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting, and steam cleaning of vehicles.

*Vehicle sales:* The sale of new and used motor vehicles.

*Vehicular use area (VUA):* Any area used by vehicles for driving or parking except public thoroughfares, including but not limited to areas for parking, display, storage or traverse of any and all types of motor vehicles, bicycles, watercraft, trailers, airplanes or construction equipment.

*Veranda:* A large, open porch, usually roofed and partly enclosed, as by a railing, and often extending across the front and sides of a house.

*Vested development:* A project that has received an entitlement to develop due to a City issued development order or permit for the project, such as a site plan approval or building permit or which meets the legal requirements for vesting. Such a project, having satisfied the City's concurrency requirements, shall be permitted to develop as per the terms of the development order or permit application. Should the development program of a "vested development" project be substantially modified in terms of density, intensity or facility impact from that development program described in the original permit application or development order, the project will lose its vested rights and be obliged to undergo a concurrency review per Chapter 7.

A project may also be a vested development if the City issued a development order or permit such as site plan approval or a building permit for the project prior to November 16, 2008. Such a project is not required to meet the concurrency requirements of Chapter 7, unless the project is significantly changed in terms of its density, intensity, or facility impact subsequent to such effective date, as determined by the City, in which case it will lose its vested development status and be obliged to undergo a review as per Chapter 7.

*Vested rights:* The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan for a specified time, regardless of changes in this Code.

*Wall offset:* A ledge or recess in a wall formed by a reduction in wall thickness above.

*Wall (when referred to as a fence):* An artificially constructed vertical barrier that is typically solid and constructed of stone, brick or masonry erected to enclose, restrict access to, screen, or separate areas.

*Wastewater:* A combination of any type of the water-carried wastes from residences, business buildings, institutions, industrial establishments, any and all other customers facilities, together with such ground, surface and stormwater as may be present, but does not mean or include hazardous or toxic wastes.

*Wastewater system:* As used interchangeably, means any and all wastewater or wastewater collection, transmission, treatment and disposal facilities currently owned, managed, controlled, or otherwise used or hereafter owned, operated, managed, controlled, or otherwise used by the City. Such system includes any and all improvements, extensions or additions thereto hereto constructed or acquired either form the proceeds of bonds or from any other sources, together with all property, real,

personal or mixed, tangible or intangible, currently or hereafter owned, operated, managed, controlled, or otherwise used by the City in connection therewith.

*Waterbodies:* Fresh and saltwater canals, ditches, lakes, marshes, rivers, swamps, and swales in the City.

*Watercourse:* A natural or artificial channel in which a flow of water occurs either continually or intermittently.

*Watercraft:* Any craft, vessel, or boat used or capable of being used as means of transportation on or under the water including watercraft such as houseboats and other watercraft not used primarily for transportation.

*Water* or *waters in the state:* Any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state. [F.S. § 373.019 (22).]

*Water distribution system:*

(1) Water mains.

(2) Sub mains.

(3) Transmission.

(4) Storage and pumping facilities.

(5) Valves.

(6) House services.

(7) Meters.

(8) Other appurtenances.

*Water system:* As used interchangeably, means any and all water production, transmission, treatment, and distribution facilities currently owned, operated, managed, controlled, or otherwise used or hereafter owned by and/or operated by the City. Such system includes any and all improvements, extensions, or additions thereto hereafter constructed or acquired either from the proceeds of bonds or from any other sources, together with all property, real, personal, or mixed, tangible or intangible, currently or hereafter owned, operated, managed, controlled, or otherwise used in connection therewith.

*Water surface elevation:* The height, in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) of 1988, or other datum specified on the Flood Insurance Rate Map (FIRM), of floods of various magnitudes and frequencies in the floodplains of coastal and riverine areas.

*Water use zone:* A grouping of spray, sprinklers, or micro irrigation emitters so that they can be operated simultaneously by the control of one valve according to the water requirements of the plants used and soil conditions.

*Well:* Any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for conveying groundwater levels or other characteristics, providing cathodic protection or providing a method of injecting water into the aquifer system from above the earth's surface.

*Wellfield:* A tract of land that contains a number of existing or proposed wells for the purpose of supplying public potable water.

*Wellhead:* The specific location of a well.

*Wellhead protection zone:* An area surrounding a public supply well or group of wells that has or have been established where special protective measures or land use activities are restricted for

purposes of protecting the quality of water contributing to public supply well(s). The following wellhead protection zones have been established:

(1) *Primary wellhead protection zone:* The innermost protective zone around a wellhead as defined by a 500-foot radius from a wellhead.

(2) *Secondary wellhead protection zone:* A delineated area around favorable potable water production areas for the Floridan and intermediate aquifer as determined by the Land Use Administrator.

*Wetland:* Those areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological or reproductive adaptations, have the ability to grow, reproduce or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. The landward extent of wetlands is delineated pursuant to Sections 62-340.100 through 62.340.550, FAC as ratified by F.S. § 373.4211 (Subsection 40C-4.021(30), FAC).

*Wetland buffer:* See *Buffer, wetland*.

*Wetland quality assessment method:* According to the Uniform Mitigation Assessment Method (UMAM), a score is determined by calculating the average of the three quality assessment criteria: Location and Landscape Support, Water Quality, and Community Structure (Chapter 62-345, FAC). The score will range from zero to one.

*Wetland systems, named:* The following wetland and surface water systems shall be designated named wetland systems:

(1) Graham Swamp.

(2) Long Creek.

(3) Pellicer Creek.

(4) Hulett Branch.

(5) Hulett Swamp.

(6) Pringle Branch.

(7) Pringle Swamp.

(8) Styles Creek.

(9) Hominy Branch.

(10) Big Mulberry Branch.

(11) Gore Lake.

(12) Black Branch.

(13) Black Branch Swamp.

*Wheel stop:* A bumper or block placed at the head of a parking stall to restrain the vehicle from moving or overhanging any pedestrian access way.

*Wing:* A part of a building projecting from and subordinate to a central or main part.

*Wireless communication facilities:* Any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other personal wireless communications, as defined in the Telecommunications Act of 1996, and usually consisting of an antenna or antenna array, transmission cables, feed lines, equipment cabinets, towers, cabling, antenna brackets, and other such equipment. The following shall be deemed a wireless communication facility: new, replacement, or existing towers, government-owned towers, modified towers, collocation on existing towers or base stations, attached concealed and non-concealed antenna, dual purpose facilities, DAS, small cell, concealed towers, and non-concealed towers, so long as those facilities are used in the provision of personal wireless services as that term is defined in the Telecommunications Act.

*Xeric:* Native plants as well as other trees, shrubs, ground covers, and vines proven to survive only on natural rainfall after a sufficient plant establishment period.

*Yard:* The open space existing on the same lot with a principal building, unoccupied and unobstructed by buildings from the ground to the sky, between the lot lines and building line.

*Zero lot line:* An arrangement of development on adjoining lots in which the required side yard offsets is reduced on one side and increased on the other so that the sum of the offsets on any lot is no less than the sum of the required offsets. No building or structure shall be closer to a lot line than five feet, unless it abuts the lot line and provided with an access easement of five feet on the adjoining lot or abuts a building or structure on the adjoining lot. The offset adjacent to property not included in the zero lot line development or a street shall not be less than that required in the zoning district. All required building codes shall be adhered to (i.e. firewalls, etc.).

*Abbreviations*

| | | | |
|---|---|---|---|
| / = per | ad = advertisement | max. = maximum | min. = minimum |
| % = percent | ac. = acre; acres | ' = foot; feet | ft. = foot; feet |
| " = inch; inches | ht. = height | sf = square foot; square feet | sq. ft. = square foot; square feet |
| n/a = not applicable | gal. = gallon(s) | pop. = population | *FS = Florida Statutes* |
| *FAC = Florida Administrative Code* | | CMS = Concurrency Management System | |

## Comments Provided at the June 9, 2026 City Council Workshop and Additional Comments from Stakeholders

| Chapter 2 Review Authority, Enforcement, and Procedures | | | |
|---|---|---|---|
| **Section** | **Comment Source** | **Comment** | **Response** |
| 2.05.06E | City Council | Limit Development Order extensions to one. | ~~D.~~E. Extension of a development order. Within three months before the expiration of any development order, the developer may request an extension not to exceed ~~12~~ 24 months provided the development has a valid certificate of concurrency. All requests shall be submitted to the Land Use Administrator in writing and shall state the reason(s) for the extension. ~~A maximum of three extensions may be granted provided the development has a valid certificate of concurrency.~~ |
| 2.06.04 | City Council | Limit frequency of zoning request from 12 to 24 months. | *Frequency of application.* A property owner shall not initiate action for the same rezoning affecting the same parcel of land more often than once every ~~12~~ 24 months following denial or approval. |
| 2.09.03D | City Council | Change wording from may to shall to include requirements for bonds for improvements in an MPD. | *Bonds.* The City Council ~~may~~ shall include in the Master Planned Development Agreement requirements for bonds (or appropriate alternatives) for improvements conditioned upon the satisfactory and timely completion of facilities in the development plan, for the benefit of purchasers from the applicant, when the development time limits and phasing schedule do not preclude the sale of individual units prior to the completion of such facilities. |

| Chapter 3 Zoning, Uses, and Dimensional Standards | | | |
|---|---|---|---|
| **Section** | **Comment Source** | **Comment** | **Response** |
| 3.01.06 *Uses not permitted in the City* | City Council | Regulate Data Centers. | *Uses not permitted in the City.* Data Centers has been added to list of uses not permitted in the City. This will require a super-majority of City Council members to be a permitted use. |
| 3.03.02. *Nonresidential and Mixed Use Districts—Allowable Uses.* | City Council | Regulate Data Centers. | *Table 3-4 Nonresidential and Mixed Use Zoning Districts—Use Table Footnote.* [6] *Data Centers require a super-majority vote of the City Council pursuant to Section 3.01.06. In the event that the City Council approves a Data Center, it will be limited to a zoning district of IND-1 or IND-2, and subject to meeting the Industrial Use Performance Standards of Section 4.14.02.* |
| Various Chapters | City Council | Regulate Data Centers. | Additional amendment to create performance standards and tiered structure for permitting will be developed and presented as a follow-up after adoption of the LDC updates. |

| Chapter 4 Conditions for Limited Specific Uses and Activities | | | |
|---|---|---|---|
| **Section** | **Comment Source** | **Comment** | **Response** |
| June 9, 2026 City Council Workshop | | There are no additional amendments to be made based on City Council Comment. | |

| Chapter 11 - Tree Protection, Landscaping, Buffers, and Irrigation | | | |
|---|---|---|---|
| **Section** | **Comment Source** | **Comment** | **Response** |
| *Chapter 11 – Tree Protection, landscaping* | City Council | Develop penalties and fines for unpermitted tree removal | Staff will prepare an ordinance to address City Council comments. |

| Chapter 14 - Glossary | | | |
|---|---|---|---|
| **Section** | **Comment Source** | **Comment** | **Response** |
| *Glossary* | City Council | Define Data Center | Staff will develop a definition for Data Center as part of LDC amendments which specifically addresses Data Centers. |

| Stakeholder Comments | | | |
|---|---|---|---|
| **Section** | **Comment Source** | **Comment** | **Response** |

## Comments Provided at the June 9, 2026 City Council Workshop and Additional Comments from Stakeholders

| | | | |
|---|---|---|---|
| *2.05.04D* | Stakeholder | Following the pre-application meeting and prior to the initial submittal to the City, a neighborhood meeting may be required. However, the information presented at such meetings may not include all development details, as project has not yet undergone staff review. This could lead to incomplete or potentially misleading information being shared with the public. | Staff provides through the Technical Review team an opportunity for any applicant to receive comments on a proposed development. |
| *2.05.04D* | Stakeholder | Proposed change to extend the completeness check to 30 days raises concern. Requiring up to five days to acknowledge receipts, followed by an additional 30 days to determine completeness, appears excessive. | The deadlines are established by Florida Statutes (Senate Bill 1080, 2025). |
| *5.02.01B6* | Stakeholder | Clarify language regarding prohibiting driveway connections. | Staff has provided additional language that prohibition for driveway connections on collector roads is only for residential driveways (not commercial) 7. Collector Roads shall not have residential driveway connections. |
| *10.01.08.A2* | Stakeholder | Requirement for double silt fencing at wetlands or upland buffer areas is considered excessive. The additional three-foot encroachment reduces the allowable development area and will ultimately need to be removed during construction, resulting in inefficiencies | The double row of silt fence is to provide extra protection to the wetlands when inevitably the first row of silt fence fails or is filled over. In that instance, the developer would then need to use only hand tools to remove all silt from the wetlands/buffer. This can become extremely costly and time consuming, and should it come to the attention of SJRWMD, DEP, or ACOE could incur serious fines. On a case by case basis, we may accept reinforced silt fence rather than two rows of regular silt fence. This regulation stems from multiple projects having issues with keeping their fill out of the wetlands and continuous issues with getting them to remove the fill from the wetlands/buffers. Staff proposes that in lieu of a double row of silt fence, a reinforced silt fence may be used. Section 10.01.08A2.<br>...Wetland buffers shall be protected from erosion and sedimentation during construction activities by installing and maintaining silt fence or turbidity barrier 1 foot landward from upland buffer or permitted wetlands impacts. A double row of silt fence, spaced at least 3 feet apart, shall be installed on any upland buffer or wetland that falls under categories below:<br>a. Is protected by conservation FLUM or Preservation Zoning.<br>b. Is within a conservation easement<br>c. Is a high-quality wetland as determined by 10.01.05.B<br>On case by case basis, a reinforced silt fence may be used in lieu of double row of silt fence. |
| *5.04.02B1* | Stakeholder | The limitation on parking flexibility to 20% should be based on the findings of a parking study rather than a fixed percentage, allowing for site-specific conditions and data-driven decisions. | Findings for parking flexibility will still be reliant to site-specific conditions and data provided by a professional. |
| *9.02.03A1* | Stakeholder | While the intent of the drainage easement guidelines is understood, the requirements may be overly restrictive. In some cases, they could eliminate the feasibility of placing easements between residential lots or within constrained access areas, such as one-way drives. | The requirements are intended to ensure that proper maintenance of buried infrastructure may be conducted. |
| *10.01.06H* | Stakeholder | The proposed three-year time frame for wetland delineation should allow for consistency with St. Johns River Water Management District (SJRWMD) jurisdictional determinations, which are valid for five years. | Staff has amended the LDC to be consistent with SJRWMD rules. Report must be completed within 5 years of submittal or must have a valid formal wetland determination through appropriate agencies. An updated delineation report can be requested if the site has been altered since the delineation in such ways, such as but not limited to clearing and altered water flow. |
| *10.02.11* | Stakeholder | Additional clarification is needed regarding the two-foot freeboard requirement within flood hazard zones to ensure consistent interpretation and application. | The two-foot freeboard requirement is limited to areas that are in Special Flood Hazard Area. Florida Building Code already requires 1-ft above Base Flood Elevation. This regulation will only apply to existing lots since new lots will need to be subject to the current FEMA rules for Special Flood Hazard Areas. This regulation also provides additional points for the City's Community Ratings System. |
| *Chapter 3* | Stakeholder | Reduce the minimum lot size for townhomes from 25' to 18-20' | Reduction of the minimum lot size for townhomes to 18' makes it difficult to meet foundation planting requirements as well as to accommodate utilities to serve the units. |
| *Chapter 3* | Stakeholder | Gas Stations. Issues with number of pumps limited in each district. | Staff has not received any concern regarding the limits on the number of pumps in certain zoning district. |
| *Data Centers* | Stakeholder | Definition of Data Centers and Standards to define Data Centers. | Staff is preparing a definition for Data Centers with performance measures to assist in defininig and creating a heirarchy for data centers. |