

ZONING

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Appendix

ARTICLE I. IN GENERAL

Sec. 118-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment of use means an intention on the part of the user to abandon his right to a nonconforming use of the premises, as well as an actual cessation of the use in issue.

Accessory use or structure means a use or structure customarily incidental to the principal use of the property.

Agricultural building or structure means any building or structure accessory to the principal agricultural use of the land.

Agriculture or agricultural means the use of land for cultivation of crops, for the raising of animals or the preservation of land in its natural state, in tracts of 2½ acres or larger.

Alteration means any change, rearrangement, enlargement, extension, reduction or moving of any structure or part thereof.

Apartment building means a building which is used or intended to be used as the home or residence for more than two families living in separate quarters.

Boardinghouse means a structure containing a dwelling unit or units used for the purpose of providing meals and lodging to persons other than members of the family occupying a dwelling as their residence, or any structure containing a dwelling unit or units designed, operated or marketed to have individual bedrooms rented or leased separately and common facilities available to the occupants of the dwelling unit or units.

Body art means the practice of physical body adornment by establishments and operators/technicians using, but not limited to, any of the following techniques: Body piercing, tattooing, branding, and scarification. This definition does not include practices that are considered medical procedures by a state medical board, such as

implants under the skin, which shall not be performed in a body art establishment, or cosmetic tattooing as defined in this section. Nor does this definition include, for the purposes of this ordinance, piercing of the outer perimeter or lobe of the ear with pre-sterilized single-use stud-and clasp ear-piercing systems, the application of gemstones or other objects and adornments to the skin via the use of temporary adhesives, or the application of temporary tattoos or markings that do not involve the piercing of the skin and may be washed away with soap and water or otherwise naturally disappear within weeks or a few months after application (e.g., henna or body or face painting).

Body art establishment means any place or premise, whether public or private, temporary or permanent, in nature or location, where the practices of body art, whether or not for profit, are performed including mobile body art establishments and temporary body art establishments.

Body piercing shall have the same meaning as set forth in F.S. (2010) § 381.0075(2)(a), as such may be from time to time amended.

Buffer zone means a landscaped and screened strip of land at least five feet wide separating two different types of land uses.

Building means any structure which fully encloses space for the occupancy by persons or their activities.

Building area means the total ground area taken by a horizontal plane at the mean grade level of each building and accessory building, but not including uncovered entrances, platforms, terraces and steps.

Building height means the vertical distance measured from the established mean grade at the front building line to the highest point of the building.

Building not of standard construction means any structure which is temporary, which is movable and which is not fully enclosed.

Campground means any area or tract of land used to accommodate two or more camping parties, including cabins, tents, house trailers or other camping outfits.

Club means any building, facilities and property owned and operated by a corporation or association of persons for social or recreational purposes, including those organized chiefly to promote friendship and welfare among its members, but not operated primarily for profit or to render a service which is customarily carried on as a business.

Compatible use means the use which is capable of existing in harmony with other uses situated in its immediate vicinity.

Conventional curriculums means the aggregate courses of study in primary, middle and secondary schools as generally approved by the county public school system or the state agency with jurisdiction.

Corner lot means a lot in the junction of and fronting on two or more intersecting streets.

Cosmetic tattooing means the practice commonly known as permanent makeup, in which micropigmentation or intradermal cosmetics are applied to permanently or semi-permanently simulate the appearance of common cosmetic applications such as eyeliner, lip liner, lip color, eyebrow enhancement, and beauty marks, or to otherwise permanently or semi-permanently restore or improve the appearance of damaged or disfigured skin and other bodily features to natural coloration and condition. For the purposes of determining whether a cosmetic tattooing establishment qualifies as permitted use, such establishment shall be treated as a clinic, beauty shop, or other similar personal service provider.

Dwelling means a building or portion thereof designed or used exclusively for residential occupancy, but not including hotels, lodging-houses, boardinghouses, motels or mobile homes.

Dwelling unit means a dwelling accommodation designed for one family unit maintaining separate and independent housekeeping but including at least one kitchen.

Family or single-family means any one of the following:

- (1) One individual, or two or more persons related by blood, marriage, legal guardianship or adoption, exclusive of a

compensated household servant, when living together in a single, non-profit housekeeping unit;

- (2) Six or fewer persons unrelated by blood, marriage, legal guardianship or adoption, when living together in a single, non-profit housekeeping unit, subject to the provisions of section 118-226; or
- (3) Florida and federal statutes or case law deems such persons to be a family unit or otherwise permitted to occupy a single-family dwelling as a matter of law.

The term "family" shall not be construed to mean a fraternity, sorority, club, monastery, convent, institutional group, boardinghouse, lodging house, rooming house, motel or hotel.

Farm means a parcel of land of 2½ or more acres used principally in the raising or production of agricultural products and the necessary or usual dwelling units, farm structures, storage and equipment.

Farm stand means a temporary structure for the display and sale of food or ornamental crops grown at a community garden or urban farm.

Floor area means the sum of the gross horizontal area of the several stories of the building measured from the exterior faces of the exterior walls or from the centerline of party walls. Included shall be any basement floor, interior, balconies and mezzanines, elevator shafts and stairwells, and enclosed porches. The floor area of accessory uses and accessory buildings on the same lot shall be included.

Funeral home means a dwelling or other structure used and occupied by a licensed mortician for burial preparation and funeral services.

Garage, commercial means a building or other premises used for the storage, repair, rental, sale and servicing of motor vehicles and for the retail sale of fuel for such vehicles.

Garden apartments means a group of apartment buildings not more than three stories or 35 feet high, each building containing not less than four dwelling units, but not limited to one building per site.

Gasoline station means any building, place or location designed to supply motor vehicles with gasoline, oils, greases, and automobile sundries, and to make minor repairs.

Home occupation or profession means any use customarily conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and which does not change the character thereof and in connection with which there is no display, no stock in trade, no outside storage of equipment, no commodity sold upon the premises, and not more than two persons are engaged in such occupation. Such uses as a barbershop, beauty parlor, tearoom, tourist home, animal hospital and dancing school shall not be deemed to be home occupations.

Hotel means a building or other structure used and maintained as a place where sleeping and supplemental accommodations are supplied transient guests. Only ten percent of the total number of lodging units will be permitted to have kitchen or cooking facilities within the unit.

Incompatible use means a use which is not in harmony with existing uses situated within its immediate vicinity.

Junkyard means a place where waste and discarded or salvaged materials are bought, sold, exchanged, stored, bailed, packaged, disassembled, and handled, including automobile wrecking yards, house wrecking and structural steel materials and other equipment, but not including the purchase or storage of used furniture and household equipment, used cars in operable condition, used or stored materials as part of a manufacturing operation.

Living area. The area of a dwelling unit that is designed and constructed to be heated or air conditioned.

Lodging house or rooming house means a structure containing a dwelling unit or units used for the purpose of providing lodging to persons other than members of the family occupying a dwelling as their residence, or any structure containing a dwelling unit designed, operated or marketed to have individual bedrooms rented or

leased separately and common facilities available to the occupants of the dwelling unit or units.

Lot means a parcel of land occupied by or to be occupied by one principal building and its accessory buildings and including the open space and yards required under this chapter. The term "lot" includes the word "plot" or "parcel."

Lot depth means the mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot line means the border dividing a lot from a right-of-way, adjoining lot or other adjoining tract of land.

Lot of record means a lot which is duly recorded in the office of the county clerk.

Lot width means the mean horizontal distance between the two side lot lines of a lot measured within the lot boundaries.

Maximum lot coverage refers to lot coverage by all buildings.

Minimum yard requirements refers to the depth of front and rear yards, and the width of side yards.

Miniwarehouse facilities means a fully enclosed structure, each unit not to exceed 560 square feet, to be used for shortterm or longterm storage purposes. This may be a detached structure or unit or a ministorage complex. No such unit shall be used for any wholesale or retail operations; however, it shall not preclude use as a depot for such purposes as a franchised distribution.

Mobile body art establishment means a mobile establishment or unit which is self-propelled or otherwise movable from place to place operated with the intent to provide body art services in such establishment or unit while parked, temporarily or permanently, on private property or other public right-of-way or public areas of the city. Mobile body art establishments are hereby prohibited.

Mobile home means any vehicle or similar portable structure mounted or designed for mounting on wheels, used or intended for use for

dwelling purposes, including structural additions, except parked or unoccupied camping-type trailers. Any vehicle or structure shall be deemed to be a mobile home whether or not the wheels have been removed therefrom and whether or not resting upon a temporary or permanent foundation.

Mobile home park means a tract of land in a single ownership which has been developed with all necessary facilities and services in accordance with a site development plan meeting all the requirements of this chapter and which is intended for the express purpose of providing a satisfactory living environment for mobile home living residents on a longterm occupancy basis.

Motel means a building or groups of buildings, whether detached or in connected units, used as sleeping accommodations designed primarily for transit automobile travelers. The term "motel" includes buildings designed as auto courts, tourist courts, motor lodges, motor hotels and similar applications. Only ten percent of the total number of lodging units will be permitted to have kitchen or cooking facilities within the unit.

Nonconforming use means any building or land lawfully occupied by a use on the effective date of the ordinance from which this chapter derives or amendments thereto which does not conform, after the effective date of this chapter or amendments, with the requirements of the district in which it is situated.

Noxious matter means any material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economical well-being of an individual.

Nursing home means a home for the aged, chronically ill or incurable persons in which three or more persons not of immediate the 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.

Park means a parcel set apart for recreation for the public to promote health and enjoyment.

Parking lot means an area or plot of ground used for the storage or parking of motor vehicles either for compensation or to provide an accessory service to a business, industrial or residential use.

Parking space means a surfaced area enclosed in the main building or in an accessory building, or unenclosed, having an area not less than 200 square feet, exclusive of driveways permanently reserved for the temporary storage of one automobile, and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

Planned unit development means a district of not less than 50 acres designed to promote the establishment of areas in which diverse uses may be brought together as a compatible and unified plan of development which shall be in the interest of the general welfare of the public, and in accordance with this chapter.

Planned unit development project means a complex of structures and uses planned as an integral unit of development rather than as a single principal structure or use on a single lot.

Professional office building means a building housing professional services, nonprofessional and other types of offices where the service of the office does not involve the transfer of a commercial product at the office site.

Restaurant means an establishment where food is served or prepared or both, for public consumption on or off the premises.

Roominghouse means a residential building used or intended to be used as a place where sleeping or housekeeping accommodations are furnished or provided for pay to transient or permanent guests or tenants in which less than ten and more than three rooms are used for the accommodations of such guests or tenants, but which does not maintain a public dining room or cafe in the same building or in any building connected to it.

Service, Personal means a service use primarily engaged in providing services involving the

care of a person, his or her apparel, pets, or small appliances, and including any of the following uses:

- Appliance services;
- Barber shops;
- Beauty shops;
- Dance studios;
- Duplicating services;
- Funeral homes;
- Health spas;
- In-house carpet servicing;
- Laundromats;
- Massage establishments;
- Photographic studios;
- Radio repair;
- Shoe repair;
- Tailoring;
- Television repair;
- Veterinary clinic;
- Watch and clock repair;
- Any similar service use.

Setback means the distance between a street and the front building line of a principal building or structure, projected to the side lines of the lot, and including driveways and parking areas, except where otherwise restricted by this chapter.

Shopping center means a group of not less than five contiguous retail stores, orderly planned and developed as a single unit.

Sign means any advertisement, announcement, direction or communication affixed to or placed on any building or structure. Signs placed or erected by governmental agencies or nonprofit civic associations for public purposes in the public interest shall not be included in this chapter, nor shall this include signs which are a part of the architectural design of a building.

Special exception means any use permitted as specified in individual district regulations, when such use is compatible to surrounding uses, will

not create traffic hazards or parking problems, or does not deviate from the terms of this chapter. All special exceptions shall be subject to site plan review by the planning and zoning board. This procedure requires submission of a development plan which sets forth specific land use, circulation and access, building arrangement and overall site layout. The planning and zoning board may require conditions such as performance standards, screening or landscaping as well as time limitations or other similar requirements.

Street means a public thoroughfare which affords the principal means of access to abutting property.

Structure means any production or piece of work, artificially built upon or composed of parts and adjoined together in some definite manner.

Swimming pool means any body of water or receptacle for water having a depth at any point greater than two feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground.

Tattooing means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa.

Tattoo parlor is an establishment in which tattooing is practiced and constitutes a type of body art establishment as defined herein.

Townhouse means all single-family dwellings constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.

Truck parking facilities. A truck parking facility is a facility on a piece of property which is to be used for long term (i.e. over five hours) and overnight parking of trucks. Exceptions to this are situations where a truck is in the process of being repaired, or being loaded or unloaded. For the purpose of this definition, a truck includes tractor trailers (either cab or trailer), or any

licensed vehicle (motorized or not) that is designed for transporting goods or materials and that has three or more axles.

Urban farm means an establishment where food or ornamental crops are grown or processed to be sold or donated that includes, but is not limited to, outdoor growing operations, indoor growing operations, vertical farms, aquaponics, aquaculture, hydroponics and rooftop farms.

Used or occupied, as applied to any land, building or other structure, shall be construed to include the term "intended, arranged or designed to be used or occupied."

Variance, as used in connection with the sections of this chapter dealing with zoning, means the relaxation of the terms of this chapter 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 this chapter would result in unnecessary and undue hardship. 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 zoning district or uses in an adjoining zoning district. Under no circumstances shall a variance permit a use not generally or by special exception permitted in the zoning district involved, or any use expressly or by implication prohibited by the terms of this chapter in such zoning district. (Code 1988, § 24-1; Ord. No. 98-42, § I, 9-24-98; Ord. No. 99-38, § I(a), 5-27-99; Ord. No. 11-05, § 2, 3-24-11; Ord. No. 17-21, § 2, 8-24-17)

Cross reference—Definitions generally, § 1-2.

Sec. 118-2. Title; zoning map.

This chapter is entitled "Zoning Ordinance for Winter Garden, Florida," and may be referred to as the "zoning ordinance." The zoning map referred to in this chapter is entitled "Zoning Map of Winter Garden, Florida," and may be referred to as the "zoning map." The zoning map is made a part of this chapter, and certified copies of this chapter are on file with the city clerk. (Code 1988, § 24-2)

Sec. 118-3. Purpose.

The purpose of this chapter and the zoning districts and regulations set forth in this chapter and as outlined on the zoning map are to:

- (1) Provide for the orderly growth of the city;
- (2) Encourage the most appropriate use of land;
- (3) Protect and preserve the value of property;
- (4) Prevent the overcrowding of land; and
- (5) Promote the health, safety and general welfare of the public.

(Code 1988, § 24-3)

Sec. 118-4. Goals.

The goals of this chapter are to:

- (1) Attain a coordinated and compatible land use which will promote the health, safety and welfare of the citizens of this city.
- (2) Establish desirable land use policies and regulations which will facilitate land utilization.
- (3) Attain the most desirable and best use of the resources available to the residents of this city.
- (4) Attain the maximum coordination and integration of the various land uses so that they may be conveniently and effectively served by the community services, facilities and public streets.

(Code 1988, § 24-4)

Sec. 118-5. Interpretation and validity.

In their interpretation and application, the sections of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

(Code 1988, § 24-5)