

- (9) Takes into consideration the future widening of State Road 50 to a six-lane divided highway and development associated therewith;
- (10) Creates and maintains a strong community image, identity and sense of place;
- (11) Promotes a high degree of compatibility between surrounding structures and attendant uses;
- (12) Fosters civic pride and community spirit by maximizing the impact of quality development;
- (13) Recognizes and makes allowances for existing uses and buildings;
- (14) Promotes the health, safety and general welfare of the commercial corridor, the city and its citizens;
- (15) Promotes the orderly growth and development within the commercial corridor along with the achievement of the goals, objectives and policies of the city's comprehensive plan;
- (16) Establishes coordinated and uniform standards and regulations which will encourage capital investment in the city and preserve the public investment in the commercial corridor spurring commercial activity and the attraction of new businesses and commercial activity; and
- (17) Reduces the risk of creating blighted areas resulting from uncoordinated and non-uniform standards and regulations.

(Ord. No. 03-30, § 2, 9-17-03)

#### **Sec. 118-1402. Boundaries of the commercial corridor.**

The commercial corridor consists of those parcels within the city limits located within 350 feet of the centerline of State Road 50. The boundaries of the commercial corridor are graphically depicted on the commercial corridor map, attached hereto as Exhibit "A" and incorporated herein by this reference. Parcels located within the aforescribed commercial corridor shall be subject to the provisions in this article, except as otherwise provided herein.

Where uncertainty exists with respect to the boundaries of the commercial corridor as shown on the commercial corridor map, the following shall apply:

- (1) The boundaries for the West State Road 50 Overlay area extend 350 feet from the centerline of West State Road 50 and includes all parcels in the 350 foot distance. In addition, any parcel of land which is located within the 350 foot area that also has a portion of the entire parcel outside the 350 foot area but is part of the same parcel of land, shall be included within the commercial corridor as if the parcel was wholly situated within the stated corridor width and is also zoned C-2 or PCD. Single use residential zoned parcels are not included in the West State Road 50 Overlay Zone.

Parcels which are subsequently annexed into the city and are within the 350 foot distance requirement from the centerline of West State Road 50 and a portion of the entire parcel outside the 350 foot area but is part of the same parcel of land, shall be included within the commercial corridor as if the parcel was wholly situated within the stated corridor width shall be made part of the West State Road 50 Overlay as a part of the city approving annexation of the parcel and subject to the provisions as outlined in section 118-1403(3).

- (2) Notwithstanding subsection (1) above, any parcel adjacent to State Road 50 or which has direct access to or from State Road 50 shall be included within the commercial corridor. Furthermore, notwithstanding subsection (1) above, any parcel, deriving in whole or in part from a parcel to which these commercial corridor standards and regulations apply as of the effective date of this article, shall also be subject to this article. Adjoining parcels created by subdividing a larger parcel shall be required to conform to these standards and regulations.

(Ord. No. 03-30, § 2, 9-17-03; Ord. No. 10-08, § 2(Exh. A), 7-8-10)

**Sec. 118-1403. Applicability.**

(1) The standards and regulations set forth in this article, in addition to existing land development regulations provided for in the Code, shall be the minimum standards and regulations for parcels, buildings, structures and/or improvements within the commercial corridor which undergo new development or substantial modification after the effective date of this article. It is the express intent of this article that, except as provided in section 118-1431, the standards and regulations provided in this article shall not apply to existing developed parcels, or buildings, structures or improvements existing as of the effective date of this article unless and until such time as said parcels, buildings, structures and/or improvements undergo a substantial modification or new development occurs.

(2) Existing buildings or uses. The site requirements of the West State Road 50 Overlay shall not apply to any modification, alteration, renovation or refurbishment of an existing building or use provided that: (1) such reconstruction is necessitated due to an Act of God; (2) such reconstruction is substantially similar to such building or accessory structure, or portions thereof, which was damaged or destroyed by an Act of God; and (3) such reconstruction does not cause nonconformity with the provisions of this article or increase its size, height, or other physical characteristics or intensity of the site when compared to the building or accessory structure, or portions thereof, which was destroyed or damaged by an Act of God. Any such modification, alteration, renovation or refurbishment shall, however, remain subject to the architectural requirements of the overlay of a building or accessory structure, or portions thereof, legally existing and lawfully conforming with the Code as of the effective date of this article.

(3) Annexation of commercial property. For the purposes of this article, the existing physical condition of properties annexed into the city after the date of this article shall be treated as if such physical condition existed on the effective date of this article.

(Ord. No. 03-30, § 2, 9-17-03; Ord. No. 10-08, § 2(Exh. A), 7-8-10)

**Sec. 118-1404. Definitions.**

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

*Building (or structure) footprint* means the area of the lot covered by the building as measured from the outside of the perimeter walls of the building. In the absence of the exterior walls, the building footprint shall be the area under the horizontal projection of the roof.

*City* means the City of Winter Garden, Florida. As used throughout, the term "city" also includes the designated agent of the city.

*Code* means the City of Winter Garden Code of Ordinances, including, but not limited to, all ordinances, resolutions, rules, regulations or land development requirements, heretofore and hereafter adopted by the City of Winter Garden.

*Commercial corridor* means that geographic area identified in section 118-1402 as an overlay district and special area of control for the purposes provided in section 118-1401.

*Design standards* means the "Supplemental Design Standards, Requirements and Regulations Pertaining to Specified Commercial Corridors within the City of Winter Garden," as such may be amended from time to time. The design standards, adopted by the city as part of this article and attached thereto as Exhibit "B", are incorporated herein by this reference. It is the express intent of this article that the design standards, or any portion thereof, are in addition to and supplemental to the Code. Unless otherwise expressly provided for in the design standards, in the event of a conflict between the design standards, or any portion thereof, and any of the provisions of the Code the more restrictive provision shall control.

*New development* means the construction of a building upon a vacant parcel; construction of a building upon a parcel whereon a building existed as of the effective date of this Ordinance and such building was razed; or the construction, alteration, improvement, expansion, renovation or modification of a building which involves the complete

demolition of said building. Notwithstanding the foregoing, "new development" does not include the construction, alteration, improvement, expansion, renovation or modification of all or part of a building razed or demolished by (or which is required to be razed or demolished due to) an Act of God when such building, or portions thereof, legally existed and lawfully conformed with the Code prior to the effective date of this article.

*Substantial modification* means any improvement, expansion, renovation, alteration, construction or modification of a building or accessory structure existing as of the effective date of this article in which said improvement, expansion, renovation, alteration, construction or modification:

- (1) Results in greater than a 50 percent increase in the total square footage of the existing building and accessory structure footprint if said existing building and accessory structure footprint is 10,000 square feet or less; or
- (2) Results in greater than a 25 percent increase in the total square footage of the existing building and accessory structure footprint if said building and accessory structure footprint is greater than 10,000 square feet; or
- (3) Results in an improvement, expansion, renovation, alteration, construction or modification where the cost of the proposed improvements is greater than 50 percent of the assessed value of the existing improvements. For purposes of this paragraph, "assessed value" shall be as determined by the Orange County Property Appraiser and "costs of the proposed improvements" shall be submitted with a cost estimate from the contractor and approved by the building official; or
- (4) Results in greater than a 100 percent increase in the number of parking spaces, as required by the Code, due to a change in the use of the subject property when compared to the number of paved parking spaces required for the prior use of the subject property.

*Nonsubstantial modification* means any improvements, expansions, renovations alterations or modifications of a building or accessory structure existing as of the effective date of this article in which:

- (1) Results in a redevelopment, modification, alteration, renovation or refurbishment of the existing business building façade and building design with no proposed change of uses for the subject property. Although, the site may be exempt from the standards and regulations set forth in this article, all proposed building improvements shall comply with section 118-1441, building design standards, set forth in this article.
- (2) It is expressly provided that the reconstruction of a building or accessory structure, or portions thereof, legally existing and lawfully conforming with the Code as of the effective date of this article shall not constitute a "substantial modification" provided that: (1) such reconstruction is necessitated due to an Act of God; (2) such reconstruction is substantially similar to such building or accessory structure, or portions thereof, which was damaged or destroyed by an Act of God; and (3) such reconstruction does not cause nonconformity with the provisions of this article or increase its size, height, or other physical characteristics or intensity of the site when compared to the building or accessory structure, or portions thereof, which was destroyed or damaged by an Act of God.

(Ord. No. 03-30, § 2, 9-17-03; Ord. No. 03-52, § 2, 12-11-03; Ord. No. 10-08, § 2(Exh. A), 7-8-10)

#### **Sec. 118-1405. Conflicts and severability.**

Unless otherwise expressly provided for in this article, in the event of a conflict between this article, or any portion thereof, and any provision of the Code, the city's resolutions, ordinances, rules, regulations or policies, including but not limited to, any building, fire safety, or health ordinance, the provision which establishes the higher and/or more restrictive standard shall control. The provisions of this article are declared

to be severable and if any section, sentence, clause or phrase of this article shall, for any reason, be held invalid, unlawful or unconstitutional, such decision shall not be held to impair the validity, force or effect of the remaining sections, sentences, clauses or phrases or part thereof of this article. It being the legislative intent that this article shall stand notwithstanding the invalidity of any part.

(Ord. No. 03-30, § 2, 9-17-03; Ord. No. 04-73, § 2, 11-11-04)

**Secs. 118-1406, 118-1407. Reserved.**

**Sec. 118-1408. Special exceptions.**

(a) In the commercial corridor, all permitted, prohibited, and special exception uses remain the same as identified in the underlying zoning districts. In addition, within the commercial corridor, display areas, outdoor sales areas, outdoor storage areas, commercial play devices, kiosks or other permanent enclosed structures used for commercial purposes may be permitted as a special exception use, provided, in addition to complying with the requirements of division 3, article II, chapter 118 of the Code, such use is consistent with sound and generally accepted land use planning principles and practices. Except as provided in this section, all special exception requests pertaining to this article shall be submitted, reviewed, advertised, granted, denied or granted with conditions pursuant to division 3, article II, chapter 118 of the Code. Appeals of the decision of the planning and zoning board shall be pursuant to division 5, article II, chapter 118 of the Code.

(b) Pursuant to section 22-28(b) of the Code, an open air vendor must obtain an occupational license as required of agents, peddlers and solicitors in section 66-104. It shall be unlawful for any open air vender to operate without a regulatory permit granted by the city commission.

(Ord. No. 03-30, § 2, 9-17-03)

**Sec. 118-1409. Violations.**

Code enforcement officers and fire inspectors are hereby expressly designated as designees of the city for purposes of issuing warning notices and citations for all violations of this article,

including the adopted design standards, in accordance with the established procedures. Life safety violations are defined as those conditions which exist involving serious threat to the public health, safety or welfare, including violations of the state accessibility code or building construction, in which case no warning notice shall be required.

(Ord. No. 03-30, § 2, 9-17-03)

**Sec. 118-1410. Classes of violations and penalties.**

Violations of this article, including the adopted design standards, shall be classified as class 3 violations under division 3, article II, chapter 2, part II of this Code.

(Ord. No. 03-30, § 2, 9-17-03)

**Sec. 118-1411. Non-exclusivity.**

Nothing contained in this article shall prevent or restrict the city from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or situation of noncompliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages. All remedies and penalties provided for in this article shall be cumulative and independently available.

(Ord. No. 03-30, § 2, 9-17-03)

**Sec. 118-1412. Suit to collect lien.**

If the city brings suit to collect liens, expenses, costs or assessments or to restrain, enjoin or otherwise prevent or remedy any violation of this article, including the adopted design standards, the city is entitled to recover reasonable attorneys' fees and court costs from the named defendant in such action.

(Ord. No. 03-30, § 2, 9-17-03)

**Sec. 118-1413. Variances.**

(a) A variance may be granted from the regulations contained in this article, including the adopted design standards, by the planning and zoning board provided, in addition to complying with the requirements of division 4, article II, chapter 118 of the Code, the planning and zoning board concludes that literal enforcement of the



provisions of this article, including the adopted design standards, would result in unnecessary and unreasonable hardships for the property at issue and that the granting of a variance is consistent with sound and generally accepted land use planning principles and practices. In order for a variance to be granted, the planning and zoning board must also find that, by granting the variance, the remaining regulations will protect the public safety and welfare of the city. Except as provided in this section, all variance requests pertaining to this article shall be submitted, reviewed, advertised, granted, denied or granted with conditions pursuant to division 4, article II, chapter 118 of the Code. Appeals of the decision of the planning and zoning board shall be pursuant to division 5, article II, chapter 118 of the Code.

(b) In considering the grant of a variance from the standards and regulations imposed by this article, the planning and zoning board shall not grant a variance if the request is based solely on the following:

- (1) Compliance with this article will not allow the property or business owner to maximize profits; or
- (2) As to sign and landscaping requirements, visibility of the business is not maximized.

(Ord. No. 03-30, § 2, 9-17-03)

**Secs. 118-1414—118-1419. Reserved.**

**DIVISION 2. LANDSCAPING WITHIN THE COMMERCIAL CORRIDOR**

**Sec. 118-1420. Submittal of landscape plans.**

When a development request necessitates site plan approval, a landscape plan delineating the location, height, and type of all plant and groundcover materials, as well as the irrigation system must be provided with the submittal of a site plan. Unless otherwise approved by the city planning director, the landscape plan must be prepared by a landscape architect licensed to practice in the State of Florida.  
(Ord. No. 03-30, § 2, 9-17-03)

**Sec. 118-1421. Landscape design standards.**

All landscaping shall be designed and located to provide a logical, consistent, and attractive pattern of landscaping that softens the as-built environment, provides visual relief, separates different land uses, eliminates or minimizes potential nuisances or adverse impacts such as dirt, litter, or noise and assists in reducing air pollution hazards. Except as provided in this article, the landscaping design standards, requirements, and regulations set forth in division 3 of the design standards shall apply to all properties within the commercial corridor.  
(Ord. No. 03-30, § 2, 9-17-03)

**Secs. 118-1422—118-1429. Reserved.**

**DIVISION 3. RESERVED\***

**Secs. 118-1430—118-1439. Reserved.**

**DIVISION 4. BUILDINGS AND ACCESSORY STRUCTURES WITHIN THE COMMERCIAL CORRIDOR**

**Sec. 118-1440. Required drawings.**

Architectural elevations of all facades, buildings and structures subject to this article shall be a required exhibit for development plan approval. Such exhibits shall include colors, materials, building dimensions, elevations of all building sides, location of service areas and mechanical equipment, screening devices, site furnishings, lighting fixtures, all signage and any other information as determined necessary to ensure consistency with the intent of this article by the city. All elevations must be signed and sealed by a licensed architect registered in the State of Florida.  
(Ord. No. 03-30, § 2, 9-17-03)

**Sec. 118-1441. Building design standards.**

(a) *Building Orientation.* All parcels adjacent to State Road 50 shall have as the primary customer entrance, an entrance along the facade

\***Editor's note**—Ord. No. 13-19, § 5, adopted May 23, 2013, repealed §§ 118-1430—118-1431, which pertained to signage within the commercial corridor and derived from Ord. No. 03-30, § 2, 9-17-03; Ord. No. 03-52, § 2, 12-11-03.

that faces State Road 50. Additionally, secondary entrances facing other public streets or adjacent buildings shall be encouraged

(b) *Building setbacks.* Except as provided for herein, all new development and any additions to existing buildings must comply with the setbacks established by the underlying zoning classification of each specific parcel. The rear yard setback shall be at least 20 feet and the side yard setback shall be at least ten feet from the property line. In the event the rear or side yard is adjacent to a public street, the rear yard setback shall be at least 20 feet and the side yard setback shall be at least 20 feet from the property line.

(c) *Architectural cohesiveness.* Architectural style will be coordinated to create a visual cohesiveness that integrates individual projects, buildings, and signs within the commercial corridor.

- (1) Buildings, principal structures, accessory structures, awnings, canopies, and signs shall have a consistent and cohesive style.

- (2) This division is not intended to prohibit or discourage unique and distinctive designs but rather prohibit and discourage visually disjointed projects or buildings that are conspicuous to the casual observer.
- (d) *Size and mass of buildings.*
- (1) The design of buildings shall include elements such as color, shape, materials, varying height, and forms that break up large expanses of blank walls. All design plans submitted to the city for approval shall contain these design elements.
  - (2) Building designs shall create visually appealing entrances and provide decorative roof and facade treatments.
  - (3) Windows and door openings shall relate to human scale and integrate the building with the surrounding site. The wall or walls of any nonresidential structure, building, or addition shall be constructed without openings that would allow occupants of the structure to view directly into adjacent residential developments.
  - (4) All nonresidential sites included in this requirement shall be oriented in a manner that will promote and strengthen pedestrian activity.
- (e) *Exterior designs, materials and color.*
- (1) Predominant exterior building materials shall be high quality materials, including, but not limited to, brick, sandstone or other stone, split-face decorative block, glass, stucco and/or masonry. Exterior building materials shall not include smooth-faced concrete block, tilt-up concrete panels or prefabricated steel panels, unless the visible finish is brick, stucco, stone, or split-face decorative block. Except as provided in this division, the rear and side facades shall be of materials and design characteristics consistent with that of the front; use of inferior or lesser quality materials for side or rear facades shall be prohibited. Metal-skinned buildings or structures are prohibited.
  - (2) The use of day-glow or fluorescent colors shall be prohibited. The use of black, gray, primary and/or secondary colors are prohibited as the predominant exterior building or roof color(s). Earth-tone colors are encouraged.
  - (3) Building trim and accent areas may feature any color(s) not specifically excluded in this division provided said color is limited to ten percent of the affected facade segment, with a maximum trim height of 24 inches total for its shortest distance. Neon tubing shall not be an acceptable feature for building trim or accent areas.
  - (4) Walls not used as part of a structure shall not exceed a height of six feet, however, decorative features and appurtenances of a wall may project above the six feet a maximum of two feet. Walls shall be maintained and in good repair.
  - (5) Exterior building design shall integrate appropriate design features such as fenestration, bays, fascia, cornices, columns, cupolas, entry focal points, gables, belt courses, lintels, pilasters, porticos, or other decorative elements to enhance overall architectural design. Entrances to a building shall be articulated with porches, porticos or other architectural forms which create a distinct entrance.
  - (6) Awnings, arcades and canopies shall be designed to shelter pedestrians from sun and rain, create a transition of scale from the street to the building entry, reduce heat against the storefront glass, and provide a distinctive image and identity for each business in the building. Lighting shall not be directly attached to a canopy or awning.
  - (7) All building facades and exterior walls which are visible from adjoining properties and/or public rights-of-way shall be visually established by architectural features such as columns, ribs or pilasters, piers and fenestration pattern. In order to add architectural interest and variety and avoid the effect of a single, long or mas-

sive wall with no relation to human size, the following additional standards shall apply:

- a. No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding 100 linear feet without including at least two of the following: pilasters, columns, canopies/porticos, arcades, colonnades, change in texture or masonry pattern, windows, trellis with vines, or an equivalent element that subdivides the wall into human scale proportions. Such walls shall also incorporate wall plane projections or recesses having a depth of at least two feet in off-set and extending at least 20 feet in length.
- b. Building walls facing the front yard or street side yard shall have window(s) and door(s). Such facades shall have display windows a minimum of six feet in height along no less than 60 percent of their horizontal length. Side or rear walls that face walkways may include false windows and door openings defined by frames, sills and lintels, or similarly proportioned modulations of the wall, only when actual doors and windows are not feasible because of the nature of the use of the building.

(f) *Roofs.* All buildings shall incorporate sloped roofs. Flat roofs may be permitted upon approval by the planning and zoning board provided that architectural features are incorporated which provide the appearance of a sloped roof structure. In addition, parapets concealing flat roofs and rooftop equipment such as HVAC units from public view shall be provided. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall and such parapets shall not at any point exceed one-third of the height of the supporting wall. Such parapets shall feature three-dimensional cornice treatment or a decorative tower.

(Ord. No. 03-30, § 2, 9-17-03)

#### **Sec. 118-1442. Screening of mechanical systems, equipment and facilities.**

Equipment and appurtenances mounted on the tops of buildings shall be screened from view. Mechanical systems, equipment and facilities such as, but not limited to, utility, transformers, backflow preventors, condensers, hardware, loading and unloading areas, exterior storage and work areas, shall be screened from public view or located at a location that is not visible from public streets or from the parking area. All screening shall be, at a minimum, the same height as the mechanical systems, equipment, or facility. Screens shall be compatible to the building, proximate properties and reflect or complement the architecture, color, and materials of the building as determined by the city-based upon sound and generally accepted architectural practices and principles. Landscaping is permitted for at-grade screening. All outside electrical, telephone, cable and gas equipment or facilities shall be placed as close to the building as feasible and screened with landscaping.

(Ord. No. 03-30, § 2, 9-17-03)

#### **Secs. 118-1443—118-1449. Reserved.**

### **DIVISION 5. SITE SPECIFIC FACILITIES WITHIN THE COMMERCIAL CORRIDOR**

#### **Sec. 118-1450. Parking.**

Parking areas and driveways (including paved areas) shall be designed to establish a logical pattern of pedestrian access, traffic flow, and parking lots with visible connections between building entrances, parking lot entrances, roads, parking spaces, sidewalks and adjacent properties, all as are consistent with sound and generally accepted engineering principles and practices. Parking lots and driveways within the commercial corridor shall be subject to, in addition to other requirements imposed by the Code, the following standards and regulations:

- (1) Parking areas containing more than 100 parking spaces shall be visually and functionally segmented into smaller lots. Parking in excess of 100 parking spaces shall