

CODE OF THE VILLAGE OF VIRGINIA GARDENS

Adopted: December 14, 1989

Effective: December 14, 1989

Published in 1990 by Order of the Village Council



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OFFICIALS

of the

VILLAGE OF VIRGINIA GARDENS, FLORIDA

AT THE TIME OF THIS CODIFICATION

Roy Whitfield

Mayor

Mary Flanagan

President of the Village Council

Paul Bithorn

Paul Collins

Emilio Guerra

John Nelson
Village Council

Neil Flaxman
Village Attorney

Suzanne Gage
Village Clerk

PREFACE

This Code constitutes a complete recodification of the ordinances of the Village of Virginia Gardens, Florida of a general and permanent nature.

Source materials used in the preparation of the Code were the 1967 Code, as supplemented through July 15, 1985, and ordinances subsequently adopted by the village council. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the 1967 Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their locations within the Code is included at the back of this Code.

Numbering System

The numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter. Thus, the second section of Chapter 1 is numbered 1-2 and the first section of Chapter 4 is 4-1. Under this system, each section is identified with its chapter and at the same time new sections or even whole chapters can be inserted in their proper place simply by using the decimal system for amendments. By way of illustration: If new material consisting of one section that would logically come between sections 3-1 and 3-2 is desired to be added, such new section would be numbered 3-1.5. New chapters may be included in the same manner. If the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

Indices

The indices have been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within each index which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication to which the attention of the user is especially directed is the looseleaf system of binding and supplemental servicing for the publication. With this system, the publication will be kept up-to-date periodically. Subsequent amendatory legislation will be properly edited and the appropriate page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Successfully keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Alyce Whitson, Supervising Editor, of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Neil Flaxman, Village Attorney and Suzanne Gage, Village Clerk, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the village readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the village's affairs.

MUNICIPAL
Tallahassee, Florida

CODE

CORPORATION

ADOPTING ORDINANCE

ORDINANCE NO. 263

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE VILLAGE OF VIRGINIA GARDENS, FLORIDA; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF VIRGINIA GARDENS:

Section 1. The Code entitled the "Code of the Village of Virginia Gardens, Florida," published by Municipal Code Corporation consisting of Chapters 1 through 16, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before November 19, 1987, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) and a term of imprisonment not to exceed sixty (60) days, or both. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this section, unless another penalty is expressly provided, shall apply to the amendment of any Code section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the Village may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits.

Section 5. Additions or amendments to the Code, when passed in the form as to indicate the intention of the Village Council to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments.

Section 6. Ordinances adopted after November 19, 1987 that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective upon its adoption in accordance with law.

Passed and adopted by the Village Council this 14th day of December, 1989.

	/s/	Roy Whitfield

		Mayor
/s/ Suzanne E. Gage		

Village Clerk		
	/s/	Paul Bithorn

		President

CERTIFICATE OF ADOPTION

I hereby certify that the foregoing is a true copy of the Ordinance passed at the regular meeting of the Council of the Village of Virginia Gardens, held on the 14th day of December, 1989.

	/s/	Suzanne E. Gage

		Village Clerk

SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ord. No.	Date Adopted	Include/Omit	Supp. No.
Supp. No. 7			
331	2-16-2006	Omit	7
333	2-16-2006	Omit	7
334	6-21-2007	Omit	7
335	6-21-2007	Include	7
336	6-21-2007	Include	7
337	9-20-2007	Include	7
338	5-15-2008	Include	7
339	5-21-2009	Include	7
340	2-19-2009	Omit	7
341	2-19-2009	Omit	7
342	2-19-2009	Omit	7
343	8-20-2009	Omit	7
344	8-20-2009	Omit	7
345	8-20-2009	Omit	7
346	9-17-2009	Include	7

347	2-18-2010	Omit	7
348	10-21-2010	Include	7
349 (corrected)	11-17-2011	Omit	7
350	10-21-2010	Omit	7
351	11-18-2010	Include	7
353	1-19-2012	Include	7
354	2-21-2013	Include	7
355	2-21-2013	Include	7
Supp. No. 8			
356	11-19-2015	Include	8
357-A	6-16-2016	Include	8
357-B	1-19-2017	Omit	8
358	5-18-2017	Include	8
359	7-20-2017	Omit	8
361	9-21-2017	Omit	8

PART I

THE CHARTER^[1]

LAWS OF FLORIDA, CHAPTER 29576, SENATE BILL NO. 912

An act to enact the Charter of the Village of Virginia Gardens in the County of Dade, and to fix the boundaries and provide for the government, powers and privileges of the said village and means of

exercising the same; and to authorize the imposition of penalties for the violation of ordinances and to provide for severability in case of partial invalidity of this Charter; and to provide for a referendum.

Be it enacted by the Legislature of the State of Florida:

Footnotes:

--- (1) ---

Editor's note— This part consists of the Charter of Virginia Gardens, passed by the Florida Legislature as Chapter 29576 of the Laws of Florida, 1953, as amended. Except for the use of a uniform system of style and capitalization and the addition of catchlines where necessary, such Charter is set out herein as enacted. Obviously misspelled words have been corrected without notation. Words added for clarification have been added in brackets. Amendments have been included and are indicated by a history note immediately following the amended section.

Sec. 1. - Body politic and corporate; powers generally.

The inhabitant[s] of the Village of Virginia Gardens, County of Dade, within the boundaries hereinafter designated, or within such boundaries as may be hereinafter designated, shall continue to be a body politic and corporate under the name of Village of Virginia Gardens and as such shall have perpetual succession, may use a common seal, may contract and be contracted with, and may sue and be sued, plead and be impleaded in all the courts of this state and in all matters whatever.

Sec. 2. - Corporate boundaries.

The corporate limits of the Village of Virginia Gardens shall include all the territory and inhabitants within the following area, and no other, to wit:

Begin at the southwest corner of Section 24, Township 53 South, Range 40 East;

Thence run easterly, along the south line of said Section 24, to the southeast corner of said Section 24;

Thence run southerly, along the range line between Range 40 East and Range 41 East, to a point 25 feet north of the south line of the north one-half of Tract 5, Section 25-53-40, Florida Fruit Lands Co. Subdivision No. 1, according to the plat thereof, as recorded in Plat Book 2, at Page 17, of the Public Record of Dade County, Florida;

Thence run westerly, along a line 25 feet north of and parallel to the south line of the north one-half of said Tract 5, to the west line of said Tract 5, said west line of Tract 5 also being the east line of Tract 12 of said Florida Fruit Lands Co. Subdivision No. 1;

Thence run, along the east line of said Tract 12, to a point 140 feet south of the north line of said Tract 12;

Thence run westerly, along a line 140 feet south of and parallel to the north line of said Tract 12, to the west line of said Tract 12, said west line of Tract 12 also being the east line of Tract 21 of said Florida Fruit Lands Co. Subdivision No. 1;

Thence run, along the east line of said Tract 21, to a point 25 feet north of the south line of the north one-half of said Tract 21;

Thence run westerly, along a line 25 feet north of and parallel to the south line of the north one-half of said Tract 21, to the west line of said Tract 21, said west line of Tract 21 also being the east line of Tract 28 of said Florida Fruit Lands Co. Subdivision No. 1;

Thence run southerly, along the east line of said Tract 28, to a point 70 feet north of the south line of said Tract 28;

Thence run westerly, along a line 70 feet north of and parallel to the south line of said Tract 28, to a point 30 feet east of the west line of the east one-half of said Tract 28;

Thence run southerly, along a line 30 feet east of and parallel to the west line of the east one-half of said Tract 28, to the south line of said Tract 28;

Thence run westerly, along the south line of said Tract 28, to the southwest corner of the east one-half of said Tract 28, said southwest corner of the east one-half of Tract 28 also being the northeast corner of the west one-half of Tract 27 of said Florida Fruit Lands Co. Subdivision No. 1;

Thence run westerly, along the north line of said Tract 27, to a point 286.86 feet east of the west line of said Tract 27; thence run southwardly along the arc of a tangential curve having a radius of 550 feet for an arc distance of 370.08 feet to a point, said point being 35 feet east of the west line of said Tract 27;

Thence run westerly, parallel to the north line of said Tract 27, to the west line of said Section 25;

Thence run northerly, along the west line of said Section 25, to the point of beginning.

Sec. 3. - Village to have all powers of municipalities.

The Village of Virginia Gardens shall have and exercise the powers, expressed or implied, granted cities and towns which are now or may be hereafter possessed or enjoyed by cities and towns under the constitution, general laws and special laws of this state, and all such powers, whether expressed or implied, shall be exercised and embraced in the manner prescribed in the constitution, general and special laws, or when not so prescribed then in such manner as may be provided by ordinance or resolution of the council.

Sec. 4. - Form of government.

- (1) The form of government of the Village of Virginia Gardens shall be known as the "mayor-council plan," consisting of mayor and five (5) councilmen, and the mayor and councilmen shall consist of six (6) citizens who are qualified voters of the village and who shall be elected at large in the manner hereinafter provided.
- (2) The mayor shall have the following duties:
 - (a) To see that all laws are enforced.
 - (b) To appoint and remove all officers and employees of the village; such appointments and removals to be approved by an affirmative vote of not less than three (3) members of the council.
 - (c) To attend meetings of the council, with the right to take part in the discussion, but not to vote.
 - (d) To recommend to the council such action as he may deem fit and proper.
 - (e) To advise the council as to the needs of the village.
 - (f) To perform such duties as may be prescribed by this Charter, organic law, ordinance or resolution of the council.
- (3) All elections shall be conducted and held under the supervision and control of election boards as set forth in Chapter 165 of the Florida Statutes Annotated.
- (4) The council shall serve at such compensation as shall be fixed from time to time by duly enacted ordinance.
- (5) After each election the council shall, by resolution, set the time for regular meetings of the council. A majority of the council may transact business at regular meetings, provided no resolution or ordinance shall be effective unless three (3) affirmative votes are received therefor. Nothing herein contained shall preclude the holding of special meetings called by the mayor or a majority of the

council; provided, however, that twenty-four (24) hours' notice of such meeting shall be given [to] all councilmen and the mayor, and that no resolution or ordinance shall be effective unless three (3) affirmative votes are received therefor.

- (6) The mayor shall be elected by a plurality vote at the general election and shall hold office for two (2) years.
- (7) The councilmen shall be elected at the general election. Three (3) councilmen shall be elected at each such election. The two (2) receiving the highest number of votes shall receive four-year terms of office and the third shall receive a two-year term of office; provided, however, at the first election after the enactment of this Charter (September, 1953), two (2) council seats, being those now held by Claude H. Ryan and Thomas E. Cole, shall be voted upon and the two (2) candidates receiving the highest number of votes shall receive four-year terms; and at the second election after the enactment of this Charter (September, 1955), three (3) council seats, being those now held by Raymond E. Salt and Bernard B. Walker and Lewis A. Hamilton, shall be voted upon as provided herein.
- (8) The first general election shall be held on the second Tuesday in the month of September, 1953, and subsequent general elections shall be held biennially thereafter on the second Tuesday of the month of September of such year.
- (9) The present officials of the Village of Virginia Gardens shall hold office until the election of September, 1953. They are:
Mayor William W. Perry.

Councilman Raymond E. Salt.

Councilman Lewis A. Hamilton.

Clerk Lucy M. Hamilton.

Councilman (President) Claude Ryan.

Councilman Thomas E. Cole.

Councilman Bernard B. Walker.

Marshall George Griffin.
- (10) The council person receiving the most votes in the general election shall serve as the president of the council for a term of two (2) years and in the event of a tie the winner shall be decided by the toss of a coin.
- (11) The clerk of the village shall be appointed by the mayor and approved by the council and shall hold office at the will of the council.
- (12) All laws shall be enacted by ordinance and all other council business by resolution. All ordinances shall be publicly read in full before being enacted into law.
- (13) The vacancy of office of council person shall be filled by the non-elected candidate from the last village election with the highest number of votes. The candidate filling this vacancy shall only serve until the next village election. This method of filling vacancies shall be applied until such time as no candidates are available to serve. In such case, an affirmative vote of not less than three (3) council persons shall fill the vacancy. In the event the council is unable to fill the vacancy within thirty (30) days from the first regular meeting after notice is given by the village clerk that no such candidates are available, then the mayor shall have the power and authority to fill such vacancy. A vacancy in the mayor's office shall be filled until the next general election by the council president. At the end of his term as acting mayor, the council president shall fulfill the remaining portion of his elected term as council person. In the event the president of the council fills a vacancy in the mayor's office, or is unable to fulfill the remainder of his term, the council person with the second most votes in the last

election shall become the president of the council and in the event of a tie, the winner shall be decided by the toss of a coin.

- (14) Should any elected official of the Village of Virginia Gardens fail to attend three (3) regular consecutive meetings, the council may declare such office vacant and, thereafter, the said office shall be filled under the provisions of section 4(13); provided, however, that illness, unavoidable absence from the meetings, or other reasonable excuse, may be offered by the officer who has failed to attend three (3) consecutive regular meetings and, if such be accepted by the council, this provision shall not be invoked.
- (15) The council shall convene for their first meeting on the day following the certification of the results of any councilmanic election, and shall meet regularly thereafter as provided in section 4(5) of this Charter.

(Laws of Fla., 1955, ch. 31328, § 1, 8-6-79; Ord. No. 264, § 1, 11-6-90; Ord. No. 265, § 1, 11-6-90; Ord. No. 266, § 1, 11-6-90; Ord. No. 267, § 1, 11-6-90)

Editor's note— The provisions on adoption of ordinances have been superceded by the uniform procedure for adoption of ordinances in F.S. § 166.041.

Sec. 4.1. - Filing fees for all candidates for offices of council and mayor.

All candidates for the office of council shall qualify with the clerk of the village in the method provided by ordinance, and shall pay a filing fee of twenty-five dollars (\$25.00). All candidates for the office of mayor shall qualify with the clerk of the village in the method provided by ordinance, and shall pay a filing fee of fifty dollars (\$50.00). All filing fees shall be paid into the general fund of the village.

(8-6-79)

Sec. 5. - Budgets, funds and accounts.

- (1) Between July 1, and August 15, of each year, the mayor shall submit to the council and the council shall in conformity with state law adopt an annual budget showing the following:
 - (a) Anticipated revenues.
 - (b) Anticipated expenses.
- (2) No expenditures shall be made unless provision therefor exists in the said budget.
- (3) Nothing shall prohibit the council and mayor from establishing a contingent fund to be expended for unforeseen lawful purposes.
- (4) Transfers may be made of appropriated amounts to a purpose or object for which the appropriation has proven insufficient.

(8-6-79)

Sec. 6. - Applicability of laws of state to the village.

All general laws of the state, applicable to municipal corporations, heretofore or hereafter enacted and which are not in conflict with the provisions of this Charter shall be applicable to said village; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the council to enact any ordinance or resolution not in conflict with the constitution of the state or with express provisions of this Charter.

Sec. 7. - Continuation of present ordinances, etc.

All village ordinances, resolutions or regulations in force at the time this Charter takes effect, and not inconsistent with the provisions thereof, are hereby continued in force until the same shall be duly amended or repealed.

Sec. 8. - Continuation of present officers, etc.

All persons holding office in, or employed by, the village, at the time this Charter goes into effect, shall continue in such office or employment and in the performance of their duties, until provisions shall have been otherwise made in accordance with the provisions of this Charter for the performance or discontinuance of the duties of any such office or employment. When such provisions shall have been made, the term of any such officer shall expire and the office be abolished.

The powers which are conferred and the duties which are imposed upon any officer, board, council or department of the village under the laws of the state shall, if such officer, board, council or department is abolished by this Charter, be thereafter exercised and discharged by the officer, board of [or] department upon whom are imposed corresponding functions, duties and powers under the provisions of this Charter.

Sec. 8.1. - Powers of mayor to establish or abolish departments.

The mayor, with the approval of the council, may establish or abolish such departments as are necessary to exercise the powers expressed or implied granted to cities and towns which are now or may be hereafter possessed or enjoyed by cities and towns under the constitution, general laws and special laws of this state or provided for by this Charter or village ordinance or resolution.

(8-6-79)

Sec. 9. - Continuation of existing rights, proceedings, contracts, etc.

All rights, actions, proceedings, prosecutions and contracts of the village, or any of its departments or officers, pending or unexecuted when this Charter goes into effect, and not inconsistent therewith, shall be enforced, continued or completed in all respects, as though begun or executed thereunder.

Sec. 10. - Appointment of boards, commissions, etc.

The mayor, with the approval of the council, may appoint boards, committees or commissions, to be composed of such number of citizens as the council may deem expedient to act in an advisory capacity in conjunction with the affairs of the village or any one (1) or more of the departments created or authorized hereby. The members of all such boards and commissions and the chairman thereof shall serve at such compensation as shall from time to time be set by duly enacted ordinance.

(8-6-79)

Sec. 11. - Publication and codification of ordinances.

All ordinances before they shall become law shall be adopted in accordance with the procedure as set forth in Florida Statutes [ch.] 166 or should such statute be amended or repealed then in accordance with the procedure as set forth from time to time in accordance with state law; provided, however, that nothing herein contained shall prevent the council at any time from appointing some person or persons, and authorizing him or them to arrange and codify the ordinances of the said village and publishing such codification in appropriate volume or volumes, which shall become the laws of the said village upon its adoption by ordinance and provided, further, that in the exercise of the power of said council to adopt said

codification, it shall not be necessary to publish said codification, but the ordinance adopting the same shall be sufficient to make it binding as the law of said village.

(8-6-79)

Sec. 12. - Recordation of ordinances in ordinance book; admissibility of ordinances in courts.

It shall be the duty of the village clerk to record, within ten (10) days after the passage thereof, all ordinances adopted by the council in a book kept for that purpose and properly index said book. A copy of any ordinance therefrom certified by the clerk under the seal of said village, shall be received in evidence in all courts of this state.

Sec. 13. - Ordaining clause of ordinances.

The ordaining clause of every ordinance shall be as follows: "Be it ordained by the Council of the Village of Virginia Gardens."

Sec. 14. - Powers of village generally.

The enumeration of particular powers in this Charter shall not be deemed or held to be exclusive, but in addition to the powers enumerated herein, implied hereby, or appropriate to the exercise hereof, the said village shall have and may exercise all other powers which are now, or may hereafter be, possessed or enjoyed by cities under the constitution and general laws of this state, and all the powers of the village, whether express[ed] or implied, shall be exercised and embraced in the manner prescribed in this Charter, or when not so prescribed then in such manner as may be provided by ordinance or resolution of the council.

Sec. 14.1. - Penalties imposed for expenses incurred by city's improvements to neglected property.

The Village of Virginia Gardens is hereby vested with the right, power and authority, by nonemergency ordinance, to impose penalties for the nonpayment of charges and fees incurred by it in cleaning up improved property of weeds, trees, debris and other like matter whenever the owner or occupant thereof has neglected to do such and has been given five (5) days registered notice in which so to do and has failed, including the right and power to declare such unpaid charges and fees to be a lien against the property served and to provide methods for collection of such fees and charges, including payment of reasonable attorney's fees for collection of such charges.

(8-6-79)

Sec. 14.2. - Special assessments on specially benefited property.

The council may provide for the opening, widening, construction, reconstruction, repair, paving, repaving, hard surfacing, and rehard surfacing of streets, boulevards and alleys, for grading, regrading, leveling, laying, relaying, paving, repaving, hard surfacing and rehard surfacing sidewalks, and for the construction of water mains and water lines, street lighting fixtures, sanitary sewers and storm sewers, and for the payment of all or any part of the cost of such improvements by levying and collecting special assessments on the abutting, adjoining, contiguous or other specially benefited property.

(8-6-79)

Sec. 14.3. - Council to adopt resolutions concerning improvements; notice of hearing.

The proceeding for a local improvement hereunder shall be the passage at a regular or special meeting of the council of a resolution indicating the location and giving a description of the improvement

by its material, nature, character, and size. The village clerk shall publish once in a daily newspaper of general circulation a notice stating that at a meeting of the council on a certain day and hour, not earlier than seven (7) days from such publication, the council will hear the objections of all interested persons to the confirmation of said resolution, which notice shall state in brief and general terms a description of the proposed improvement with the location thereof.

(8-6-79)

Sec. 15. - General penalty for violations of ordinances and Charter.

The council is empowered to adopt ordinances setting forth the penalty provisions for violations of this Charter and all ordinances adopted pursuant hereto, such penalty not to exceed a five-hundred-dollar fine or sixty (60) days in jail, or both, in the discretion of the trial judge.

Sec. 16. - Severability.

If any section or part of a section of this Charter is invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section of this Charter, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section which is unconstitutional or invalid.

Sec. 17. - Effect of Charter on other laws.

Nothing in this act shall be so construed as to alter, abolish, affect or amend any of the laws of this state now in force, or which may hereafter be enacted, relative to towns and cities of the state, incorporated under the general law, nor any of the ordinances of the village now in force under the existing government of said village, except such as are in conflict with the provisions of this act; and all such laws and ordinances are hereby declared to be in full force and effect.

Sec. 18. - Ratification of acts of council, officers, etc.

All acts and proceedings of the council or of any officer of the village done or taken pursuant to or under the general laws of the state, are hereby ratified with like force as if such acts and proceedings had been done and taken under authority duly conferred by the legislature.

Sec. 19. - Effective date; approval of people.

This act shall become effective upon being approved and ratified by a majority of the qualified electors of the Village of Virginia Gardens voting at a special election to be held on or before the 4th day of August, 1953, and the results of such election certified to the secretary of state under the provisions of Florida Statutes Annotated, § 100.351.

It shall be the duty of the proper village officials to do all those things necessary to effect the calling of the election provided for by this section.

The question on the ballot at the said special election shall be: Shall the Act of the 1953 Legislature entitled "An Act to enact the Charter of the Village of Virginia Gardens in the County of Dade, and to fix the boundaries and provide for the government, powers and privileges of the said Village and means of exercising the same; and to authorize the imposition of penalties for the violation of ordinances and to provide for severability in case of partial invalidity of this Charter" be adopted?

Yes _____ No _____

Those favoring adoption of the said Charter shall vote "Yes" and those opposing the adoption of the said Charter shall vote "No".

Became a law without the Governor's approval.

Filed in Office Secretary of State June 15, 1953.

PART II - CODE

Chapter 1 - GENERAL PROVISIONS

Sec. 1-1. - How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of the Village of Virginia Gardens," and may be so cited.

(Code 1967, § 1-1)

Charter reference— Authorizing village to codify ordinances, § 11.

Sec. 1-2. - Codification of ordinances.

The ordinances of the village shall from time to time be collected and arranged into a Code which shall be published in looseleaf book form. Upon such codification, such Code shall have the full effect of law and reference to any ordinance may be made by the section as set forth in such Code. Such Code may be enforced in the same manner as the ordinance from which the Code section was derived.

(Code 1967, § 1-01)

Charter reference— Publication and codification of ordinances, § 11.

Sec. 1-3. - Rules of construction.

In the construction of this Code and of all ordinances of the village, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the village council:

Charter. The word "Charter" shall mean the Charter of the Village of Virginia Gardens printed as Part I of this volume.

Code. The word "Code" shall mean the "Code of the Village of Virginia Gardens."

Computation of time. Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be had shall be counted. If the last day is a Saturday, Sunday or legal holiday such period shall continue to the next following day which is not a Saturday, Sunday or legal holiday.

Council, village council. Whenever the words "council," "the council" or "village council" are used, they shall be construed to mean the village council of the Village of Virginia Gardens.

County. The word "county" shall mean the County of Dade.

Cross reference— Dade County, F.S. § 7.13.

Daytime, nighttime. "Daytime" is the period of time between sunrise and sunset, and "nighttime" is the period of time between sunset and sunrise.

F.S. The abbreviation F.S. shall mean the latest edition or supplement of the Florida Statutes.

Gender. A word importing the masculine or feminine gender only shall extend and be applied to males and females and to firms, partnerships and corporations.

In the village. The words "in the village" shall mean and include all territory over which the village now has or shall hereafter acquire jurisdiction for the exercise of its police or other regulatory powers.

Joint authority. Unless otherwise specifically provided, all words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper, proprietor and owner. The words "keeper," "proprietor" and "owner" except as regards ownership of land shall mean and include persons, firms, associations, corporations, clubs and copartnerships whether acting by themselves or a servant, agent or employee.

Month. The word "month" shall mean a calendar month.

Number. A word importing the singular number only may extend and be applied to several persons or things as well as to one (1) person or thing and a word importing the plural number may extend and be applied to a single person or thing.

Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Officer, department, board, commission, etc. Reference to any officer, department, board, commission or similar body shall mean any officer, department, board, commission or similar body of the Village of Virginia Gardens, unless otherwise specified.

Or, and. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

Owner. The word "owner" applied to a building or land shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, firms, partnerships, joint adventures, estates, trusts, syndicates, fiduciaries and bodies politic and corporate as well as to individuals.

Personal property includes every species of property except real property as herein defined.

Preceding, following. The words "preceding" and "following" mean next before and next after respectively.

Property. The word "property" shall include real and personal property.

Real property. The words "real property" shall include lands, tenements and hereditaments.

Shall, may. "Shall" is mandatory and "may" is permissive.

Sidewalk. The word "sidewalk" shall mean any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians, excluding parkways.

Signature or subscription. The word "signature" or "subscription" includes a mark when the person cannot write.

State. The word "state" shall be construed to mean the State of Florida.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts, causeways and all other public highways in the village and it shall also be construed to include a sidewalk or footpath unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the village council.

Tenant or occupant. The word "tenant" or "occupant" applied to a building or land, shall include any person holding a written or oral lease of or who occupies, the whole or a part of such building or land either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Village. The word "village" shall be construed as if followed by "of Virginia Gardens."

Written or in writing shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year, except where otherwise provided.

(Code 1967, § 1-2)

State Law reference— Definitions, F.S. § 1.01.

Sec. 1-4. - Official time.

Whenever certain hours are named in this Code, they shall mean eastern standard time or eastern daylight saving time as may be in current use in the village.

(Code 1967, § 1-6)

Sec. 1-5. - Catchlines of sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section nor unless expressly so provided shall they be so deemed when any of such sections including the catchlines are amended or reenacted.

(Code 1967, § 1-7)

Sec. 1-6. - References to chapters or sections.

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

Sec. 1-7. - History notes.

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

Sec. 1-8. - References and editor's notes.

References and editor's notes following certain sections are inserted as an aid and guide to the reader and are not controlling nor meant to have any legal effect.

Sec. 1-9. - Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code so far as they are the same as those of ordinances existing at the time of the effective date of this Code shall be considered as continuations thereof and not as new enactments.

(Code 1967, § 1-3)

Sec. 1-10. - Code does not affect prior offenses, rights, etc.

Nothing in this Code or the ordinances adopting this Code shall affect any offense or act committed or done or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

Sec. 1-11. - Effect of repeal of ordinances.

- (a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.
- (b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal for any offense committed under the ordinance repealed.

(Code 1967, § 1-4)

Sec. 1-12. - Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any offense or act committed or done or any penalty or forfeiture incurred before the effective date of this Code;
- (2) Any ordinance or resolution promising or guaranteeing the payment of money for the city or authorizing the issue of any bonds of the village or any evidence of the village's indebtedness or any contract, right, agreement, lease, deed or other instrument or obligation assumed by the village;
- (3) Any administrative ordinances or resolutions of the village not in conflict or inconsistent with the provisions of this Code;
- (4) Any right or franchise granted by any ordinance;
- (5) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing, vacating, etc., any street or public way in the village;
- (6) Any appropriation ordinance;
- (7) Any ordinance levying or imposing taxes;
- (8) Any ordinance prescribing through streets, parking and traffic regulations, speed limits, one-way traffic, limitations on load of vehicles, or loading zones;
- (9) Any land use, zoning or rezoning ordinance or amendment to the zoning map;
- (10) Any ordinance establishing and prescribing the street grades of any street in the village;
- (11) Any ordinance providing for local improvements and assessing taxes therefore;
- (12) Any ordinance dedicating or accepting any plat or subdivision in the village;
- (13) Any ordinance annexing territory or excluding territory or any ordinance extending the boundaries of the village;
- (14) Any ordinance establishing positions, classifying positions, setting salaries of village officers and employees or any personnel regulations;
- (15) Any temporary or special ordinances;
- (16) Any provision of Laws of Fla., Ch. 29576, 1953, as amended, or any special act provision which has been converted to ordinances by F.S. § 166.021 which has not been superseded or repealed or is not inconsistent with this Code;

and such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Sec. 1-13. - Effect of amendments to Code.

- (a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the village council to make the same a part hereof, shall be deemed to be incorporated in this Code so that reference to the Code shall be understood and intended to include such additions and amendments.
- (b) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages.
- (c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: "That section _____ of the Code of the Village of Virginia Gardens, Florida, is hereby amended to read as follows:" The new provisions shall then be set out in full as desired.
- (d) If a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of the Village of Virginia Gardens, Florida, is hereby amended by adding a section to be numbered _____, which section reads as follows:" The new section may then be set out in full as desired.
- (e) All sections, divisions, articles, chapters, or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

State Law reference— Minimum procedural requirements for adoption of ordinances and resolutions, F.S. § 166.041.

Sec. 1-14. - Supplementation of Code.

- (a) By contract or by village personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the village council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the village council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code, and shall also include all amendments to the Charter during the period. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier, meaning the person, agency or organization authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ through _____." The inserted section numbers will indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code; and

- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Charter reference— Codification authorized, § 11.

Sec. 1-15. - Severability of parts of Code.

It is hereby declared to be the intention of the village council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional or invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Code.

(Code 1967, § 1-5)

Sec. 1-16. - General penalty; continuing violations.

Whenever in this Code, or in any ordinance or resolution of the village, or in any rule or regulation or order promulgated by any officer or agency of the village under authority duly vested in him, any act is prohibited or is declared to be unlawful or a misdemeanor, or the doing of any act is required or the failure to do any act is declared unlawful or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or any such ordinance, resolution, rule, regulation or order shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days or by both such fine and imprisonment. Each day any violation of any provision of this Code or of any such ordinance, resolution, rule, regulation or order shall continue shall constitute a separate offense.

(Code 1967, § 1-8)

Charter reference— General penalty, § 15.

Cross reference— Miscellaneous offenses, Ch. 11.

State Law reference— Fines and forfeitures in county court payable to municipality, F.S. § 34.191; punishment for misdemeanors, F.S. §§ 775.082, 775.083.

Chapter 2 - ADMINISTRATION^[1]

Footnotes:

--- (1) ---

Charter reference— Form of village government, § 4.

Cross reference— Alarm systems, Ch. 3; alcoholic beverages, Ch. 4; animals, Ch. 5; elections, Ch. 7; finance and taxation, Ch. 8; prior approval of mayor required for certain expenditures, § 8-1; health, sanitation and nuisances, Ch. 9; licenses and business regulations, Ch. 10; solid waste, Ch. 13; utilities, Ch. 15.

ARTICLE I. - IN GENERAL

Sec. 2-1. - Custodian of records; cost of copying.

- (a) That the village clerk, or in her absence, the assistant clerk, be designated the custodian of village records, excluding police department records.
- (b) That the chief of police/public safety director, or in his absence, his administrative assistant, be designated the custodian of all police or public safety records.
- (c) That all persons designated herein shall fully familiarize themselves with F.S. chapter 119, and the village shall fund the expense of any training and/or seminars necessary to educate the individuals appointed herein as to requirements under F.S. chapter 119.
- (d) That all persons designated herein shall comply with any request for public records in accordance with the requirements of F.S. chapter 119 and confer from time to time, inclusive of times when request is made for public records with the village attorney so that full compliance with F.S. chapter 119 is had.
- (e) The cost of copying any public records shall be such amount as designated in F.S. chapter 119.07 as from time to time amended.

(Ord. No. 285, §§ 1—5, 8-19-93)

Sec. 2-2. - Per diem meal reimbursement for travel.

Whenever it is deemed necessary for the mayor, council members, or employees of the village, or any other authorized person to travel on village business, and such travel is approved either by the mayor or village council, allowances for subsistence shall be regulated as follows:

- (1) *Overnight travel:* All travelers on continuous travel of twenty-four (24) hours or more, away from Miami-Dade County may be allowed sixty dollars (\$60.00) per day for meals.
- (2) *Day travel:* All travelers who travel on short or day trips, where the traveler is away from the Miami-Dade County may be allowed the following per diem meal allowance:
 - a. Breakfast \$10.00
 - b. Lunch 20.00
 - c. Dinner 30.00

(Ord. No. 308, § 1, 11-18-99)

Secs. 2-3—2-25. - Reserved.

ARTICLE II. - VILLAGE COUNCIL ^[2]

Footnotes:

--- (2) ---

Charter reference— Village council, § 4 et seq.

Cross reference— Elections, Ch. 7.

Sec. 2-26. - Compensation.

All members of the village council shall receive a compensation of one hundred seventy-five dollars (\$175.00) per month. If any councilmember does not attend the duly called meetings, the council may, upon proper motion duly made, seconded and passed require such person to forfeit all or part of the compensation for such period as the council deems appropriate.

(Ord. No. 260, §§ 1, 3, 11-19-87)

Sec. 2-27. - Temporary assumption of responsibility of mayor's duties and obligations when mayor is absent.

- (a) In the event of the mayor's absence from the village for a period which shall exceed three (3) consecutive working days, or in the event of an emergency situation which requires the mayor's absence from the village for his/her ability to perform those duties and responsibilities of mayor, the mayor, to the fullest extent possible, shall notify the president of the council and the village clerk, with copies to the council and department heads, of his/her absence, the duration of said absence and the reason for said absence.
- (b) Upon the mayor's absence, the council's president shall perform the mayor's responsibilities and duties until such time as the mayor is able to fulfill his/her responsibilities and duties. In the event that the council's president cannot assume such duties and responsibilities, he/she shall notify in writing immediately the mayor and the village clerk, with copies to the council and department heads. The mayor will then appoint a council member of his/her choice to perform the mayor's duties during such absence.
- (c) The individual acting for the mayor in his/her absence shall immediately report to the council for informational purposes any and all action taken by him/her with regard to any matter which, but for the absence of the mayor, would have or could have been taken by the mayor.

Upon the mayor's return, the person acting in place of the mayor shall issue a full report of any and all matters relating to the responsibilities and duties of the mayor which have been undertaken by the person acting in place of the mayor.

(Ord. No. 293, §§ 1—3, 5-18-95)

Editor's note— Ord. No. 293, §§ 1—3, adopted May 18, 1995, did not specifically amend the Code; hence inclusion as a new § 2-27 was at the editor's discretion.

Secs. 2-28—2-40. - Reserved.

ARTICLE III. - BOARDS, COMMITTEES, COMMISSIONS^[3]

Footnotes:

--- (3) ---

Charter reference— Authorizing village council to appoint advisory boards, etc., § 10.

Cross reference— Election board, § 7-2.

DIVISION 1. - GENERALLY

Secs. 2-41—2-50. - Reserved.

DIVISION 2. - BEAUTIFICATION COMMITTEE^[4]

Footnotes:

--- (4) ---

Cross reference— Buildings and building regulations, Ch. 6.

Sec. 2-51. - Established.

A beautification committee is hereby created and established.

(Code 1967, § 2-20)

Sec. 2-52. - Composition; terms.

The beautification committee shall consist of five (5) members appointed by the mayor with consent of the village council. One (1) member shall be appointed each year for a five-year term. If for any reason an appointment should not be made by the required date, the incumbent will continue to serve until his successor has been appointed.

(Code 1967, § 2-21)

Sec. 2-53. - Filling vacancies.

In the event of the death or resignation of a member of the beautification committee or his failure to attend a meeting within a period of sixty (60) days, a successor may be appointed by the mayor with the consent of the village council to fill the unexpired term.

(Code 1967, § 2-22)

Sec. 2-54. - Action as advisory body; recommendations subject to final action of council.

The beautification committee shall act only as a recommending or advisory body and its recommendations shall be subject to the final action of the village council.

(Code 1967, § 2-23)

Sec. 2-55. - Powers.

The beautification committee shall have the power to:

- (1) Prescribe rules and regulations and the form of applications to be used by applicants regarding landscaping;
- (2) Call, hear and consider all applications for change in the use requirements established in any district by any landscaping ordinance and to make findings and recommendations to the village council;
- (3) Receive and approve all new landscaping plans before submission to the village council and before a certificate of occupancy is issued to all construction other than single-family residences.

(Code 1967, § 2-24)

Sec. 2-56. - Chairman.

At the meeting held in January of each year, the members of the beautification committee shall choose a chairman from among the members and he shall preside at all meetings for the ensuing year.

(Code 1967, § 2-25)

Sec. 2-57. - Meetings.

The beautification committee shall meet at the village hall on the first Thursday of each month and shall make any recommendations to the village council before the next Thursday. The chairman may call a special meeting of the board at any time, with three (3) days' notice to all the members.

(Code 1967, § 2-26)

Sec. 2-58. - Quorum.

A quorum of three (3) members of the beautification committee shall be sufficient to transact any business at a meeting.

(Code 1967, § 2-27)

Secs. 2-59—2-70. - Reserved.

DIVISION 3. - CODE ENFORCEMENT BOARD⁵

Footnotes:

--- (5) ---

Cross reference— Animals, Ch. 5; buildings and building regulations, Ch. 6; health, sanitation and nuisances, Ch. 9; licenses and business regulations, Ch. 10; solid waste, Ch. 13; streets, sidewalks and other public places, Ch. 14; utilities, Ch. 15; zoning, Ch. 16; administration, § 16-26 et seq.; signs, § 16-241 et seq.

Sec. 2-71. - Declaration of legislative intent.

It is the intent of this division to promote, protect and improve the health, safety and welfare of the citizens of the village by providing an equitable, expeditious, effective and inexpensive method of enforcing the codes of the village.

(Code 1967, § 2-30)

Sec. 2-72. - Established; organization.

(a) There is hereby created and established a code enforcement board, which board shall consist of seven (7) members appointed by the mayor and village council for three-year terms except as set

forth herein. Members of the code enforcement board shall be residents of the village. Appointments shall be made on the basis of experience or interest in the fields of zoning and building control. The membership of the code enforcement board shall, whenever possible, consist of an architect, a businessman, an engineer, a general contractor, a subcontractor and a realtor, but shall not be limited to these professions.

- (b) Any member may be reappointed by the mayor and village council. Appointments to fill a vacancy shall be for the remainder of the unexpired term. Any member who fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the chairman shall automatically forfeit his appointment. The mayor and village council shall promptly fill such vacancy for the remainder of the term.
- (c) Members of the code enforcement board shall elect a chairman. The presence of four (4) or more members shall constitute a quorum. Members shall serve with such compensation and may be reimbursed for such travel, mileage and per diem expenses as may be authorized by the mayor and city council.

(Code 1967, § 2-31)

State Law reference— Similar provisions, F.S. § 162.05.

Sec. 2-73. - Jurisdiction.

The code enforcement board shall enforce and have jurisdiction for the purpose of enforcement over the following subject matter as set forth in the village Charter, Code and ordinances heretofore enacted or hereafter enacted:

- (1) Animals and fowl;
- (2) Bicycles;
- (3) Health and sanitation;
- (4) Licenses;
- (5) Property maintenance;
- (6) Refuse and garbage;
- (7) Shooting ranges;
- (8) Solicitors;
- (9) Streets and sidewalks;
- (10) Vehicles for hire;
- (11) Water and sewers;
- (12) Building and zoning.

(Code 1967, § 2-32)

Sec. 2-74. - Powers generally.

The enforcement board shall have the power to:

- (1) Adopt rules for the conduct of its hearings;
- (2) Subpoena alleged violators and witnesses to its hearings which may be served by police officers of the village public safety department and shall be issued by the village clerk;

- (3) Subpoena records, surveys, plats and other material;
- (4) Take testimony under oath;
- (5) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance.

(Code 1967, § 2-33)

State Law reference— Similar provisions, F.S. § 162.08.

Sec. 2-75. - Enforcement procedure.

- (a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various laws of the village.
- (b) If a violation of the laws are found, the code inspector shall notify the violator unless (c) below applies and give such violator five (5) days to correct the violation. If the violation continues beyond the time specified for correction, the code inspector shall notify the code enforcement board and request a hearing pursuant to the procedure in section 2-80. Written notice shall be mailed to such violator as provided in section giving such violator at least ten (10) days' notice of such hearing and setting forth the time and place for such hearing. At the option of the code enforcement board, notice may additionally be served by publication or posting as provided in section 2-80. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code inspector, the case may be presented to the enforcement board even if the violation has been corrected prior to the board hearing, and the notice shall so state.
- (c) If the code inspector has reason to believe a violation presents a serious threat to the public health, safety and welfare or if the violation is irreparable or irreversible in nature, the code inspector shall make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.

(Code 1967, § 2-34)

State Law reference— Similar provisions, F.S. § 162.06.

Sec. 2-76. - Hearings.

- (a) The chairman of the code enforcement board may call hearings of the enforcement board and hearings may also be called by written notice signed by at least three (3) members of the enforcement board. The enforcement board at any hearing may set a future hearing date. The enforcement board should attempt to convene no less frequently than once every two (2) months, but may meet more or less as the demand necessitates. Minutes shall be kept of all hearings by the enforcement board and all hearings shall be open to the public. The village shall provide clerical and administrative personnel as may be reasonably required by the enforcement board for the proper performance of its duties.
- (b) Each case before the code enforcement board shall be presented by either the village attorney or by an employee of the village public safety department.
- (c) The code enforcement board shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded electronically. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern such proceedings.
- (d) At the conclusion of the hearing, the code enforcement board shall issue findings of fact and conclusions of law and shall issue an order affording the proper relief consistent with powers granted herein. The findings shall be by motion approved by a majority of those present and voting, except

that at least four (4) members of the code enforcement board must vote for the action to be official. The presence of any four (4) members of the board shall constitute a quorum for the purpose of conducting any hearings hereunder or for other purposes herein. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by that date.

(Code 1967, § 2-35)

State Law reference— Similar provisions, F.S. § 162.07.

Sec. 2-77. - Fines.

- (a) The code enforcement board upon notification by the code inspector that a previous order of the board has not been complied with by the set time or that the same violation has been repeated by the same violator, may order the violator to pay a fine not to exceed two hundred fifty dollars (\$250.00) for each day the violation continues past the date set for compliance or for each time the violation has been repeated, and a hearing shall not be necessary for issuance of the order.
- (b) In determining the amount of the fine, if any, the code enforcement board shall consider the following factors:
 - (1) The gravity of the violation;
 - (2) Any actions taken by the violator to correct the violation; and
 - (3) Any previous violations committed by the violator.
- (c) A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. The lien may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After six (6) months from the filing of any such lien which remains unpaid, the code enforcement board may authorize the village attorney to foreclose on the lien. No lien created pursuant to the provisions of this chapter may be foreclosed on real property which is a homestead under § 4, Art. X of the state constitution.

(Code 1967, § 2-36)

State Law reference— Similar provisions, F.S. § 162.09.

Sec. 2-78. - Duration of lien.

No lien provided under this division shall continue for a period longer than five (5) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

State Law reference— Similar provisions, F.S. § 162.10.

Sec. 2-79. - Appeals.

An aggrieved party may appeal a ruling or order of the code enforcement board by certiorari in the circuit court of the county and in accordance with the civil rules of appellate procedure. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

(Code 1967, § 2-37)

State Law reference— Similar provisions, F.S. § 162.11.

Sec. 2-80. - Notices.

- (a) All notices required by this division shall be by certified mail, return receipt requested, or where mail would not be effective, by hand delivery by the code inspector or by leaving the notice at the violator's usual place of residence with some person of his family above fifteen (15) years of age and informing such person of the contents of the notice.
- (b) In addition to providing notice as set forth in (a) above, at the option of the code enforcement board, notice may also be served by publication or posting, as follows:
 - (1) Such notice shall be published once during each week for four (4) consecutive weeks (four (4) publications being sufficient) in a newspaper of general circulation in the county. The newspaper shall meet such requirements as are prescribed under F.S. ch. 50 for legal and official advertisements.
 - (2) Proof of publication shall be made as provided in F.S. §§ 50.041 and 50.051.
- (c) Notice by publication may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under (a) above. Evidence that an attempt has been made to hand deliver or mail notice as provided in (a) above, together with proof of publication as provided in (b) above, shall be sufficient to show that the notice requirements have been met, without regard to whether or not the alleged violator actually received such notice.

(Code 1967, § 2-38)

State Law reference— Similar provisions, F.S. § 162.12.

Secs. 2-81—2-90. - Reserved.

DIVISION 4. - ZONING AND PLANNING BOARD^{[\[6\]](#)}

Footnotes:

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Buildings and building regulations, Ch. 6; streets, sidewalks and other public places, Ch. 14; utilities, Ch. 15; zoning, Ch. 16; administration, § 16-26 et seq.; site plan review, § 16-56 et seq.; rezonings, variances, special exceptions, § 16-71 et seq.

Sec. 2-91. - Established.

A zoning and planning board is hereby created and established.

(Code 1967, § 2-7)

Sec. 2-92. - Composition; appointment and terms of office of members.

- (a) The zoning and planning board shall consist of five (5) members appointed by the mayor with the consent of the village council.
- (b) The members of the zoning and planning board shall be appointed for five-year terms. Such terms shall be staggered so that one (1) member is appointed each year. If for any reason an appointment should not be made by the required date, the incumbent will continue to serve until his successor has been appointed.

(Code 1967, § 2-8)

Sec. 2-93. - Removal of members and filling of vacancies.

In the event of the death or resignation of a member of the zoning and planning board or his failure to attend any meeting for a period of sixty (60) days, a successor shall be appointed by the mayor with the consent of the village council to fill the unexpired term.

(Code 1967, § 2-9)

Sec. 2-94. - Meetings; officers.

- (a) The zoning and planning board shall meet at the village hall on the second Thursday of each month and shall make any recommendations to the village council before the next Thursday. The chairman may call a special meeting of the board at any time with three (3) days' notice to all the members. A quorum of three (3) members of the board shall be sufficient to transact any business at a meeting.
- (b) At the meeting held in February of each year, the members of the zoning and planning board shall choose a chairman from among the members. The chairman shall preside at all meetings for the ensuing year.

(Code 1967, § 2-10)

Sec. 2-95. - Powers and duties.

The zoning and planning board shall act only as a recommending or advisory body and its recommendations shall be subject to the final action of the village council. The zoning and planning board shall have the powers to:

- (1) Prescribe rules and regulations and the form of applications regarding matters under the jurisdiction of the board to be used by applicants;
- (2) Call, hear and consider all applications for a change in the use requirements established in any district by any zoning regulation and to make findings and recommendations to the village council;
- (3) Receive and approve all new subdivision plats before submission to the village council.

(Code 1967, § 2-11)

Sec. 2-96. - Fee for filing of applications with board.

Each application filed with the zoning and planning board shall be accompanied by a fee of twenty-five dollars (\$25.00) to defray the costs and expenses incident to the consideration and passing upon such application.

(Code 1967, § 2-12)

Secs. 2-97—2-105. - Reserved.

DIVISION 5. - CANVASSING BOARD

Sec. 2-106. - Appointment of members.

- (a) That by resolution from time to time the council shall appoint residents of the village to be canvassing board members for all elections. Such canvassing board shall have those responsibilities as are consistent with the election code as provided for by Florida Statutes.
- (b) That should no appointments be made for any specific election, the council of the village shall act as the canvassing board.

(Ord. No. 286, §§ 1, 2, 12-18-93)

Secs. 2-107, 2-108. - Reserved.

DIVISION 6. - LOCAL PLANNING AGENCY

Sec. 2-109. - Established.

- (a) The local planning agency shall consist of five (5) voting members.
- (b) Local planning agency members shall also be village council members.
- (c) The local planning agency shall transmit its recommendations to the village council to approve or disapprove prior to council vote on a planning ordinance or resolution.

(Ord. No. 326, §§ 1—3, 3-17-05)

Sec. 2-110. - Reserved.

ARTICLE IV. - DEPARTMENTS^[7]

Footnotes:

--- (7) ---

Cross reference— Prior approval of mayor required for certain expenditures, § 8-1.

DIVISION 1. - GENERALLY

Secs. 2-111—2-125. - Reserved.

DIVISION 2. - PUBLIC SAFETY DEPARTMENT^[8]

Footnotes:

--- (8) ---

Cross reference— Alarm systems, Ch. 3; alcoholic beverages, Ch. 4; animals, Ch. 5; presence of police officer at election place, § 7-7; miscellaneous offenses, Ch. 11; motor vehicles and traffic, Ch. 12; parades and demonstrations, § 14-91 et seq.

Sec. 2-126. - Established.

A public safety department is hereby established. The head of this department shall be the public safety director who shall also be known by the title of chief of police. The director shall be appointed by the mayor with the approval of not less than three (3) members of the village council. The director shall serve at the will of the mayor and may be removed by the mayor at any time with the consent of not less than three (3) members of the village council.

(Code 1967, § 2-28)

Sec. 2-127. - Supervision and control of director.

The mayor shall be the immediate supervisor of the public safety director and all policies, directives and orders from the village government to the director shall be made by or transmitted through the mayor as the executive head of the village government. The director shall report directly to the mayor and not to the village council or to individual members thereof.

(Code 1967, § 2-28(a))

Sec. 2-128. - Powers and duties of director.

The public safety director shall direct the administration and operation of the public safety department and, in addition to policies transmitted to him by the mayor, shall establish such other policies, directives, rules and regulations for the administration and operation of the department as he sees fit. The mayor shall appoint and/or remove all employees of the department, such appointments and removals shall not be effective until approved by an affirmative vote of not less than three (3) members of the council. Appointments and removals shall first be recommended by the director. By resolution the council may, with regard to any specific appointment or removal, waive the requirement that the appointment and/or removal must have the director's recommendation. The director shall have the power to discipline, inclusive of suspension, department employees.

(Code 1967, § 2-28(b); Ord. No. 284, § 1, 11-18-93)

Sec. 2-129. - Powers and duties.

(a) The powers and duties of the public safety department are as follows. The public safety department shall:

- (1) Preserve the public peace, prevent crime, detect and arrest offenders, protect the rights of persons and property and regulate and control traffic in accordance with the laws of this state and the ordinances of the county and the village;
- (2) Have all powers and perform all duties, powers and functions regarding health and safety, including but not limited to the enforcement of zoning and health laws;
- (3) Recruit and provide training for department personnel;
- (4) Perform such additional duties as may be prescribed by resolution or by administrative orders and regulations of the mayor;
- (5) Charge and collect a fee which is on file in the village clerk's office for administrative services rendered for or on behalf of any person by furnishing background investigations, fingerprinting,

photographs taken or processed by it, copies of accident reports and copies of any other reports authorized to be furnished to members of the public;

- (6) Have such other powers as are prescribed by law.
- (b) The public safety department shall be vested with sole and exclusive responsibility for performance of the powers, duties and functions enumerated in (a) above.

(Code 1967, § 2-29)

Sec. 2-130. - Right of appeal of public safety director/chief of police against any disciplinary action by the mayor.

- (a) The public safety director/chief of police shall have the right to appeal any disciplinary action taken against him/her by the mayor, which disciplinary action does not have the prior consent of at least three (3) councilpersons.
- (b) *Procedure for appeal.* Within ten (10) days from the date of any written notification of disciplinary action taken against the public safety director/chief of police by the mayor, without prior approval of at least three (3) councilpersons, the public safety director/chief of police shall file with the clerk a written notice of appeal specifying the disciplinary action the public safety director/chief of police wishes to appeal.
- (c) Within forty-five (45) days from such notice, the clerk shall place on the agenda of a regular or special meeting of the council the issue or issues to be appealed. The mayor shall first present his/her reason and/or evidence to sustain the disciplinary action taken. Thereafter, the public safety director/chief of police shall present his/her reason and evidence to show why such disciplinary action should not be sustained. The proceedings shall be informal; however, those testifying will be affirmed or be sworn to tell the truth.
- (d) After hearing the reasons and or evidence for the disciplinary action, the council may adopt the disciplinary action taken by the mayor, modify, substitute or overrule such disciplinary action. The decision of the council shall be in its sole discretion and shall be final.
- (e) The council on affirmative vote of a majority of the council may refer the issue of the appeal to a third neutral party in accordance with the rules and regulations of the American Arbitration Association. Both the selection of such neutral party and the procedure before such neutral party shall be in accordance with the rules of the American Arbitration Association.
- (f) Should the matter be referred to a neutral party, then the fee of such neutral party shall be paid for by the village. Attorney fees shall be paid for by the respective parties; provided, however, should the public safety director/chief of police prevail before such neutral party, then reasonable attorneys' fees shall be paid the public safety director/chief of police not to exceed three thousand dollars (\$3,000.00). The decision of the neutral party shall be final.
- (g) All disciplinary action taken by the mayor shall be stayed pending a decision in accordance herewith, should timely appeal be filed as provided herein.
- (h) Nothing contained herein shall in any way create any additional rights with regard to termination of the public safety director/chief of police. Such matter is specifically provided for in Part 1, Section 4b of the Charter.

(Ord. No. 278, §§ 1—8, 5-21-92)

Secs. 2-131—2-140. - Reserved.

DIVISION 3. - RECREATION DEPARTMENT

Sec. 2-141. - Established.

There is hereby created and established as a department and agency of the village a recreation department, which shall be known and cited as the recreation department.

(Code 1967, § 2-4)

Sec. 2-142. - Supervision and control; reports to mayor and village council.

Upon the recommendation of the mayor, the village council shall appoint seven (7) citizens of the village to operate the recreation department. Such citizens shall serve at the will of the council and shall elect one (1) of themselves as chairman. Such chairman shall be responsible to report to the mayor and village council on the recreation department's activities.

(Code 1967, § 2-5)

Sec. 2-143. - Powers and duties.

The recreation department shall be responsible to provide recreation facilities for the citizens of the village and to operate any recreation facilities that the village may obtain, and shall make reports and recommendations to the village council and mayor on the needs and functions of the department.

(Code 1967, § 2-6)

Sec. 2-144. - Office of recreation director created.

The position of coordinator of recreation is hereby created.

(Code 1967, § 2-16)

Sec. 2-145. - Supervision and control.

The recreation coordinator shall be under the direct supervision of the mayor and of the village council and shall report to the council concerning the recreation activities of the village.

(Code 1967, § 2-17)

Sec. 2-146. - Term of office.

The recreation coordinator shall serve for such period as the mayor so designates, subject to the approval of the village council.

(Code 1967, § 2-19)

Secs. 2-147—2-155. - Reserved.

ARTICLE V. - COMPREHENSIVE LAND USE PLAN^[9]

Footnotes:

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Editor's note— Ord. No. 262, § 1, adopted July 20, 1989, which approved a comprehensive land use plan for the village by reference, did not specifically amend the Code; hence, inclusion of its provisions as Ch. 2, Art. V, § 2-156 was at the discretion of the editor.

Sec. 2-156. - Approved.

The comprehensive land use plan of the village prepared June 15, 1989, as amended, be and the same is hereby approved as the comprehensive land use plan of the village, in accordance with the provisions of F.S. ch. 163.

(Ord. No. 262, § 1, 7-20-89)

Secs. 2-157—2-160. - Reserved.

ARTICLE VI. - CODE ENFORCEMENT OFFICERS^[10]

Footnotes:

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Editor's note— Ord. No. 306, §§ 1—5, adopted Feb. 18, 1999, amended former Art. VI, §§ 2-161—2-165 in its entirety to read as herein set out. Former Art. VI pertained to similar subject matter and derived from Ord. No. 269, §§ 1, 5, adopted Feb. 21, 1991.

Cross reference— Code enforcement board, § 2-71 et seq.

Sec. 2-161. - Definitions.

- (a) As used in this article, "code enforcement officer" means any designated employee or agent of the Village of Virginia Gardens designated by the mayor or chief of police whose duty it is to enforce codes and ordinances enacted by the village.
- (b) There are hereby designated certain employees and agents of the village as code enforcement officers for the purpose of this article. Employees or agents hereby designated as code enforcement officers include police officers of the Village of Virginia Gardens, or other designated by the mayor or chief of police as code enforcement officers.
- (c) "Repeat violation" means a violation of a provision of a code or ordinance by a person previously found to have violated the same provision within five (5) years prior to the current violation by the code enforcement board or the county court of Dade County, Florida.

(Ord. No. 306, § 1, 2-18-99)

Sec. 2-162. - Issuing of citations.

- (a) A code enforcement officer is authorized to issue a citation for civil infractions requiring the payment of civil penalties, to a person when, based upon investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code provision or ordinance.

- (b) Prior to issuing a citation, a code enforcement officer shall provide notice warning of violation to the person that the person has committed a violation of a code provision or ordinance and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than fifteen (15) days. If, upon personal investigation, a code enforcement officer finds that the person has not corrected the violation within the time period, a code enforcement officer may issue a citation to the person who has committed the violation. A code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if the code enforcement officer has reason to believe that the violation presents a serious threat to the public health, safety, or welfare or if the violation is irreparable or irreversible.
- (c) A citation issued by a code enforcement officer shall be in a form which shall contain:
 - (1) The date and time of issuance.
 - (2) The name and address of the person to whom the citation is issued.
 - (3) The date and time the civil infraction was committed.
 - (4) The facts constituting reasonable cause.
 - (5) The number of section of the code or ordinance violated.
 - (6) The name and authority of the code enforcement officer.
 - (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
 - (8) The applicable civil penalty if the person elects to contest the citation.
 - (9) The applicable civil penalty if the person elects not to contest the citation.
 - (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fail to appear in court to contest the citation, he shall be deemed to have waived his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.
- (d) After issuing a citation to an alleged violator, a code enforcement officer shall deposit the original citation and one (1) copy of the citation with the county court village clerk.

(Ord. No. 306, § 2, 2-18-99)

Sec. 2-163. - Supplemental procedure.

- (a) The procedure for implementing the provision of section 2-162 are as to enforcement under said section 2-161 that:
 - (1) A violation of a code or an ordinance is a civil infraction.
 - (2) The maximum civil penalty for each violation shall not exceed those amounts set forth in the penalties provision.
 - (3) A civil penalty of two hundred fifty dollars (\$250.00) to the maximum, as set forth in section 2-164 "Penalties," may be imposed if the person who has committed the civil infraction does not contest the citation and pays same under subsection 2-162(c)(9) above, unless otherwise provided in section 2-162.
 - (4) A code enforcement officer shall only issue a citation upon reasonable cause to believe that a person has committed an act in violation of a code or an ordinance.
 - (5) A citation issued hereunder shall be subject to contest in the county court before a hearing officer/special master as provided under section 2-165.

- (b) Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or § 775.083.
- (c) The provision of this section shall not apply to the enforcement pursuant to F.S. §§ 553.70 and 553.80 of building codes adopted pursuant to F.S. § 553.70 and 553.80 as they apply to construction, provided that a building permit is either not required or has been issued by the village. For the purposes of this subsection, "building codes" means only those codes adopted pursuant to F.S. § 553.73.
- (d) The provisions of this section are an additional and supplemental means of enforcing municipal codes or ordinances and may be used for the enforcement of any code or ordinance. Nothing contained in this section shall prohibit the village from enforcing its codes or ordinances by any other means.
- (d) The village does hereby determine that the appointment of a special master is necessary and does hereby adopt the supplemental procedure as outlined in F.S. § 162.03 and shall, by resolution hereafter, name a special master.

(Ord. No. 306, § 3, 2-18-99)

Sec. 2-164. - Penalties.

Initial violations of Code sections and ordinances shall carry a fine not to exceed two hundred fifty dollars (\$250.00) per day of violation. Repeat violations shall carry a fine not to exceed five hundred dollars (\$500.00) per day of violation. Each day of violation may be considered as a separate violation.

(Ord. No. 306, § 4, 2-18-99)

Sec. 2-165. - Special masters.

Pursuant to F.S. § 162.03(2), special masters designated and determined to be qualified by the mayor and approved by the village council shall have the authority to adjudicate code and ordinance violations concerning the subject matter, as provided for by Florida Statutes; the charter and ordinances of the village having the same power as code enforcement boards.

- (1) To be eligible for service as a special master, a person must be a resident of Dade County, and:
 - a. Have served as a member of the zoning board or code enforcement board of the Village of Virginia Gardens or Dade County within the last five (5) years prior to appointment; or
 - b. Be a retired Florida judge; or
 - c. Be a member in good standing of the Florida Bar, with no less than five (5) years of practice.
- (2) No more than three (3) special masters shall be appointed for service for any one (1) period.
- (3) A special master's term of appointment shall be limited to one (1) two (2) years. A special master may be re-appointed by the village council mayor with approval of the village council.
- (4) The village council, at its sole discretion at the recommendation of the mayor, may remove any special master from service at any time.
- (5) A special master shall be compensated at a rate not to exceed one hundred dollars (\$100.00) per hour for attendance at hearings of the special master, or such other compensation as is agreed upon by the village.

- (6) All proceedings before a hearing officer/special master shall be recorded by a certified court reporter.
- (7) All costs associated with a hearing before a hearing officer/special master shall be borne by the person cited, provided no costs shall be assessed against a person who is found not to have committed an infraction.

(Ord. No. 306, § 5, 2-18-99)

Chapter 3 - ALARM SYSTEMS^[1]

Footnotes:

--- (1) ---

Cross reference— Administration, Ch. 2; public safety department, § 2-126 et seq.; buildings and building regulations, Ch. 6; licenses and business regulations, Ch. 10.

Sec. 3-1. - 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:

Alarm system means any equipment, either mechanical or electrical which is arranged to signal the occurrence of illegal entry or other activity requiring urgent attention and to which the police department is expected to respond.

Alarm user means any person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility or portion wherein an alarm system is maintained and/or used.

False alarm means an alarm signal calling for a response by the police department when a situation requiring a response by the police department does not in fact exist, but this definition does not include an alarm signal caused by unusually violent conditions of nature nor does it include extraordinary circumstances not reasonably subject to control by the alarm user.

(Ord. No. 259, § 1, 11-19-87)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 3-2. - Emergency notification.

Every alarm user located within the limits of the village shall give the police department an emergency telephone number in order to permit prompt notification to the alarm user of alarm calls to the protected premises. The emergency telephone number shall be kept current by the alarm user.

(Ord. No. 259, § 2, 11-19-87)

Sec. 3-3. - Duties of police upon response.

- (a) Whenever an alarm as described in this division is activated within the village limits, thereby requiring an emergency response to such location and the police department does respond, the

police officer on the scene of the activated alarm system shall inspect the area protected by the system and shall determine whether the emergency response was in fact required as indicated by the alarm system or whether in some way the alarm system malfunctioned and thereby activated a false alarm.

- (b) If a police officer at the scene of the activated alarm system determines the alarm to be false, the officer shall make a report of the false alarm to the chief of police who shall mail or deliver notification of the false alarm to the alarm user at the address of the alarm system installation location, advising the alarm user of the false alarm, setting forth the date and time of the false alarm.

(Ord. No. 259, § 3, 11-19-87)

Sec. 3-4. - Fee assessment.

- (a) It is hereby found and determined that more than ten (10) false alarms within any twelve-month period are excessive and constitute a public nuisance.
- (b) The activation of more than ten (10) false alarms within a twelve-month period shall be handled in the following manner:
 - (1) A twenty-five-dollar service charge shall be imposed upon the alarm user for each false alarm at the premises where the alarm system is located.
 - (2) The bill for the charge set forth in (1) above shall be due and payable within thirty (30) days from the date of mailing. After the passage of thirty (30) days, the bill shall be considered delinquent and shall bear interest from the date of delinquency at the rate of fifteen (15) percent per annum. To enforce payment of the bill the village shall have the right to record a lien against any real property owned by the alarm user located within the limits of the village and shall have the rights granted by law to enforce payment of the lien. If the alarm user does not own any real property within the limits of the village, the village shall have the right to impose a lien upon any other real or personal property owned by the alarm user wherever located and may enforce the lien in the same manner as a court judgment by the sheriffs of this state, including levy upon the personal property. It shall not be deemed otherwise to be a judgment of court except for enforcement purposes. No lien herein created shall continue for a longer period than two (2) years after a certified copy of it has been recorded in the public records of the county unless within that time an action to foreclose on the lien has been commenced in a court of competent jurisdiction.
 - (3) In addition to those rights set forth in (2) above, the village shall also have the right to discontinue police response to alarms that occur on the premises where the false alarm occurred until payment as set forth above is received from the alarm user.
 - (4) The fee set forth in (1) above shall be cumulative; that is to mean that for each false alarm in excess of ten (10) false alarms during any twelve-month period, the alarm user shall be charged the twenty-five-dollar fee.
- (c) That the village clerk is directed to withhold the issuance of any business occupational license until such time as such business pays any money due under the terms or conditions of this chapter.

(Ord. No. 259, § 4, 11-19-87)

Sec. 3-5. - Right of appeal.

Any alarm user as defined in section 3-1 who disputes the amount of any fee imposed as set forth in section 3-4 shall have a right to appeal to the village council. Such appeal shall be taken by filing a notice of appeal with the village clerk within fourteen (14) days after notice of imposition of the fee has been mailed. The village council shall consider the appeal at its next regularly scheduled council meeting or at a specially called council meeting and shall have the power to either affirm imposition of the fee or order

the fee cancelled. Any alarm user who is aggrieved by any action of the village council on an appeal shall have the right to seek judicial review of the village council's actions in a court of competent jurisdiction.

(Ord. No. 259, § 5, 11-19-87)

Chapter 4 - ALCOHOLIC BEVERAGES^[1]

Footnotes:

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Cross reference— Administration, Ch. 2; public safety department, § 2-126 et seq.; buildings and building regulations, Ch. 6; health, sanitation and nuisances, Ch. 9; licenses and business regulations, Ch. 10; motor vehicles and traffic, Ch. 12; streets, sidewalks and other public places, Ch. 14.

State Law reference— Alcoholic beverages, F.S. ch. 561 et seq.

Sec. 4-1. - Restrictions on locating retail liquor establishments near churches and schools.

No retail liquor dealer's license for the sale of liquor to be consumed upon the premises shall be issued to any person if the place of business designated in the application therefor is within five hundred (500) feet of a public or private school. The method of measurement applied to determine whether or not a place of business applying for a license to sell liquor for consumption on the premises is within five hundred (500) feet from a public or private school shall be by measurement in a straight line from the nearest point of the land used by such school to the nearest point on the land on which the proposed establishment is to be located. Nothing in this section shall be interpreted to permit the sale of alcoholic beverages in any adjacent or residential district where such sale is now prohibited by this Code or any other ordinances of the village. This section shall have no effect on the licenses existing on September 24, 1959, issued in accordance with law and the same may be renewed as required from year to year so long as such place of business presently in use for the sale of liquor is not moved, transferred or increased in area of more than fifty (50) percent of its area on such date. For the purposes of this section, the word "liquor" means and includes any distilled, rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one (1) or more of the foregoing.

(Code 1967, § 3-2; Ord. No. 295, § 2, 7-20-95)

Case Law reference— Ordinance No. 51, which preceded the ordinance from which this section derives and which was superseded by this material, but which related to the same subject matter, was upheld and applied in *Johnson v. Village of Virginia Gardens*, 107 So.2d 34.

Cross reference— Buildings and building regulations, Ch. 6; licenses and business regulations, Ch. 10; streets, sidewalks and other public places, Ch. 14; zoning, Ch. 16.

Sec. 4-2. - Restrictions on locating beer or wine establishments near churches and schools.

- (a) No place of business or establishment or vendor of any type shall sell or give away beer or wine to be consumed upon the premises or off the premises if the place of business or establishment or vendor is within five hundred (500) feet of a public or private school; provided, that the method of measurement applied to determine whether or not such place of business or establishment or vendor is within five hundred (500) feet.

- (b) Notwithstanding any provisions of this section, any nonprofit organization may give away beer or wine for the purpose of a social function, a fund raising drive or other like function; provided, that they first obtain from the clerk of the village a permit which shall be good for intervals of one (1) day only and deposit with the clerk a fee of five dollars (\$5.00) for the processing of such permit.
- (c) The provisions of this section shall not apply to a supermarket or grocery store which sells beer and wine for consumption off the premises as part of the overall business of the sale of groceries.
- (d) This section shall have no effect on places of business, establishments or vendors existing and presently selling beer or wine on the date of enactment of the ordinance from which this section was derived.
- (e) The term "beer" as used herein shall extend to and include all brewed beverages containing malt. The term "wine" as used herein shall extend to and include all beverages classified as wine under F.S. Ch. 561. and all beverages classified as fortified wine under that chapter.

(Code 1967, § 3-2.1; Ord. No. 295, § 4, 7-20-95)

Cross reference— Buildings and building regulations, Ch. 6; health, sanitation and nuisances, Ch. 9; licenses and business regulations, Ch. 10; streets, sidewalks and other public places, Ch. 14.

Sec. 4-3. - Location of establishment restricted.

- (a) The sale by any person of any intoxicating beverages, excluding beer and wine for off-premises consumption within one thousand (1,000) feet in any direction from a place where any person sells intoxicating beverages, excluding beer and wine for off-premises consumption, is prohibited. The distance shall be measured by following a straight line from the front door of the proposed place of business to the nearest point of the structure of the existing establishment.
- (b) The provisions of this section shall not apply to an establishment that serves alcoholic beverages in conjunction with, and as part of its overall business of serving meals for consumption upon the premises of such establishment, and further provided that no less than eighty (80) percent of the total square footage of the area of said establishment which is open to the public is regularly used for service of meals for consumption upon the premises of said establishment.
- (c) An intoxicating beverage is defined, for the purposes of this section, to mean any beverage which contains alcohol either obtained by fermentation or by the additional process of distillation which when consumed is capable of producing intoxication or drunkenness or inebriety.

(Code 1967, § 3-5; Ord. No. 17, § 2, 10-24-55; Ord. No. 295, § 6, 7-20-95)

Cross reference— Licenses and business regulations, Ch. 10.

Sec. 4-4. - Hours of sale of alcoholic beverages—On-premises consumption.

No alcoholic beverages may be sold or served for consumption on the premises or permitted to be served or sold for consumption on the premises of any place holding a license from the state beverage department within the village between the hours of 5:00 a.m. and 9:00 a.m. each weekday including Saturday and between the hours of 5:00 a.m. and 11:00 a.m. on Sundays.

(Code 1967, § 3-3)

Sec. 4-5. - Same—Off-premises consumption.

No alcoholic beverages may be sold or served for consumption off the premises or permitted to be served for consumption off the premises of any place holding a license under the state beverage department within the village between the hours of 5:00 a.m. and 9:00 a.m. weekdays and Saturday and between the hours of 5:00 a.m. and 11:00 a.m. on Sundays; provided, that this provision shall not be applicable to the sale of beer and wine on weekdays and Saturdays.

(Code 1967, § 3-4)

State Law reference— Authorizing village to regulate the hours of sale of alcoholic beverages, F.S. § 562.14.

Sec. 4-6. - Consumption of intoxicating or alcoholic beverages in public places.

(a) *Definitions.* The following definitions shall apply for purposes of this section.

Alcoholic or intoxicating beverage shall mean any beverage containing some alcohol and which, when drunk to excess, can produce intoxication and includes, but is not limited to, wine, beer, liquor, and ale.

Furnish shall mean giving, providing, selling, or otherwise making available, whether or not for any consideration.

Open container shall mean any bottle, can, cup, glass, or other receptacle containing any alcoholic beverage which is open, which has been opened, which has its seal broken, or has its cap broken, or which has had its contents partially removed.

Person shall mean any individual, corporation, firm, partnership, joint venture, syndicate, organization, or other group or combination acting as a unit association, corporation, or other legal entity and shall include the plural as well as the singular.

Public place shall mean any street, thoroughfare, right-of-way, easement, sidewalk, vacant or abandoned property, the parking lot of any business establishment, and the exterior or outdoor portion of any business establishment.

- (b) *Consumption of alcoholic beverages in public places prohibited.* It shall be unlawful for any person to consume any intoxicating or alcoholic beverage on or within any public place.
- (c) *Furnishing of alcoholic beverages for consumption in public places prohibited.* It shall be unlawful for any person to furnish any intoxicating or alcoholic beverage for consumption on or within any public place.
- (d) *Permitting consumption of alcoholic beverages in public places prohibited.* It shall be unlawful for any person to promote or permit the consumption of any intoxicating or alcoholic beverage on or within any public place.
- (e) *Possession of open containers of alcoholic beverages in public places prohibited.* It shall be unlawful for any person to possess an open container of any intoxicating or alcoholic beverage on or within any public place.
- (f) *Permitting possession of open containers of alcoholic beverages in public places prohibited:* It shall be unlawful to permit any person to possess an open container of any intoxicating or alcoholic beverage on or within any public place.
- (g) *Exceptions.* The provisions of this section shall not apply to:
 - (1) Any person who has procured a special event permit and who is conducting a special event in accordance with the terms and conditions of a special event permit and agreement in accordance with the provisions of section 10-2 of this Code.
 - (2) Any person who is attending a special event for which a special event permit has been properly issued in accordance with the provisions of section 10-2 of this Code, and who is only

possessing an open container of, or consuming an alcoholic beverage within the boundaries of the location for which a special event permit was issued.

- (h) *Penalty.* Any person who violates any of the provisions of this section shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.
- (i) *Costs.* If it is determined that a violation of this section was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.
- (j) *Fines.* Any fine imposed for violation of this section or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with Section 162.09(3), Florida Statutes.

(Code 1967, § 3-6; Ord. No. 303, § 2, 4-16-98)

Cross reference— Streets, sidewalks and other public places, Ch. 14.

Chapter 5 - ANIMALS^[1]

Footnotes:

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Cross reference— Administration, Ch. 2; enforcement by the code enforcement board, § 2-71 et seq.; public safety department, § 2-126 et seq.; buildings and building regulations, Ch. 6; health, sanitation and nuisances, Ch. 9; solid waste, Ch. 13; animal matter to be deposited in closed solid waste container, § 13-48; streets, sidewalks and other public places, Ch. 14.

ARTICLE I. - IN GENERAL

Sec. 5-1. - Bird sanctuary.

- (a) The village is hereby declared to be a sanctuary for birds.
- (b) No bird of any species shall be killed, destroyed, maimed or mutilated, except in such situations as the state department of health and rehabilitative services, in accordance with the provisions of F.S. § 381.031, declares that quarantine or destruction of such bird is necessary to protect public health or in situations where the owner of a bird desires to destroy the bird because of its deteriorating physical condition.
- (c) Any person or entity who violates the terms and conditions of this section shall be subject to a fine for each such violation not to exceed the sum of two hundred fifty dollars (\$250.00).

(Ord. No. 255, §§ 1, 2, 4, 1-16-86)

Sec. 5-2. - Collection, removal and disposal of animal waste.

- (a) Any person owning, possessing, harboring or having the care, charge, control or custody of any animal shall immediately collect, remove, and thereafter properly dispose of any fecal matter caused or deposited by the animal on any public or private area or property within the village (other than upon the property of the owner of the animal) unless the owner or person in lawful possession of the property has consented to such deposit. For the purpose of compliance with this section, animal fecal matter shall be immediately collected and removed by placing the matter in a closed or sealed container and thereafter disposing of it by depositing the matter in a trash receptacle, sanitary disposal unit, or other closed or sealed container.

- (b) This section shall not apply to blind or handicapped persons accompanied by a dog used for assistance in accordance with the law.

(Code 1967, § 4-1; Ord. No. 335, §§ 1, 2, 6-21-07)

Secs. 5-3—5-25. - Reserved.

ARTICLE II. - DOGS

Sec. 5-26. - Running at large prohibited.

- (a) No person owning or having possession, charge, custody or control of any dog shall cause, permit or allow the dog to stray, run, be or in any other manner to be at large without having the dog on a leash and having control of the leash, excepting the person having such possession, charge, custody or control may allow the dog to be without a leash if the dog is contained in a fenced-in facility, fenced on all sides with a minimum height of four (4) feet on property owned, leased or controlled by such person having possession, charge, custody or control of the dog.
- (b) Any person who violates any of the provisions of this section shall be subject to a fine not to exceed two hundred fifty dollars (\$250.00), or a money judgment taken against the person not to exceed two hundred fifty dollars (\$250.00), if this section is enforced by the code enforcement board.

(Ord. No. 257, §§ 2, 3, 9-18-86)

Sec. 5-27. - Dog noise.

- (a) *Definitions.*

Dog noise. Dog noise constitutes the barking, yelping or howling from a dog.

Continuous barking, yelping or howling means an incident of barking, yelping or howling which occurs more than three (3) times within an hour period. An incident of barking, yelping or howling shall be considered a period of barking, yelping or howling which extends for a period of ten (10) seconds.

Loud and raucous noise means any barking, yelping or howling which can be heard from a fifty-foot radius of any boundary line of the property from which the dog noise emanates.

- (b) *Prohibited dog noise.* It shall be unlawful for any person to keep, harbor or maintain any dog or dogs that disturb, violate or injure the peaceful living, comfort or quiet enjoyment of any person of ordinary or reasonable sensibility living within the village by having said dog create loud and raucous noise on a continuing basis.
- (c) The above stated definitions shall be utilized as criteria to determine whether in fact subsection (b) hereinabove has been violated. If in fact a violation has occurred, then there shall be posted on the door of the residence where said dog or dogs are located, or delivered to an inhabitant of the residence wherein said dog or dogs are located, a notice indicating a violation of this section and a demand for abatement of the barking, yelping or howling within forty-eight (48) hours from the posting or delivery of said notice.
- (d) Should the above stated violation not be corrected within said forty-eight-hour period, then in that event a citation shall be issued, which citation shall require an inhabitant or inhabitants of the residence wherein said dog or dogs are located to appear before the code enforcement board or before the code enforcement master to determine whether a violation of this section has occurred.
- (e) If the code enforcement board and/or code enforcement master determines a violation has occurred, then the inhabitant or inhabitants of the residence wherein said dog or dogs are located shall be subject to a fine not to exceed two hundred fifty dollars (\$250.00) for each violation that has occurred. Provided, however, that in no event shall the fine imposed hereunder exceed one

thousand dollars (\$1,000.00) in total in any six-month period regardless of the number of violations within that six-month period.

(Ord. No. 277, §§ 1—5, 3-19-92)

Secs. 5-28—5-40. - Reserved.

ARTICLE III. - CATS

Sec. 5-41. - Stray cat—Defined.

A "stray cat" is a cat that does not have a tag affixed by a collar setting forth the name and address of its owner or does not have a registration number tattooed on the inner thigh of the cat in accordance with the Metropolitan Dade County Code or who is not at the time of capture on the property of its owner.

(Code 1967, § 4-12)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 5-42. - Reserved.

Editor's note— Ord. No. 319, adopted Oct. 16, 2003, repealed former § 5-42 in its entirety which pertained to trapping of stray cats and derived from the Code of 1967.

Sec. 5-43. - Same—Disposition.

Stray cats so captured shall be delivered by the village to the county department of animal services for possible destruction.

(Code 1967, § 4-14)

Sec. 5-44. - Registration or identification of cats.

Owners of cats are hereby put on notice that they may comply with the provisions of the Metropolitan Dade County Code regarding voluntary registration of cats or provide the means of identification as set forth in that section affixed to the cat so as to be entitled to notice of capture as provided in section 5-45.

(Code 1967, § 4-15)

Sec. 5-45. - Notification of owner when registered cat is captured.

In the event that a cat is captured whose owner has complied with the provisions of the Metropolitan Dade County Code regarding voluntary registration of cats or has affixed the identification of the owner, including name and address, by a tag worn around the cat's neck, then upon the capture of such owner's cat, such owner shall be notified of the capture, which notice shall contain the location of the cat and require such cat to be picked up by its owner within two (2) days from receipt of such notice. If the notice is posted on the door of the address listed on the cat's identification, then such posting shall constitute receipt of the notice.

(Code 1967, § 4-16)

Sec. 5-46. - Fee for redemption of captured cat.

If a captured cat is retrieved by its owner while the cat is still in the care, custody and control of the village, there shall be charged a fee not to exceed twenty-five dollars (\$25.00) to cover the village's expense and cost concerning the effort involved in capturing such cat.

(Code 1967, § 4-17)

Secs. 5-47—5-60. - Reserved.

ARTICLE IV. - USE AND PLACEMENT OF ANIMAL TRAPS

Sec. 5-61. - Restrictions on the use of animal traps.

Traps intended for the capture of apprehension of any domestic animal (dog or cat) shall not be permitted within the village except when placed by the village personnel pursuant to the authorization and direction of the chief of police or the chief's designee, or by a resident after first having obtained specific approval to use or place an animal trap from the village council. Animal traps owned by the village shall be used only by authorized village personnel under the direction and supervision of the chief of police or his designee, and the village shall not loan or permit any resident to use any animal trap owned by the village.

(Ord. No. 319, § 1, 10-16-03)

Chapter 6 - BUILDINGS AND BUILDING REGULATIONS^[1]

Footnotes:

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Cross reference— Beautification committee, § 2-51 et seq.; enforcement by the code enforcement board, § 2-71 et seq.; zoning and planning board, § 2-91 et seq.; alarm systems regulations, Ch. 3; alcoholic beverages, Ch. 4; restriction on locating beer or wine establishments near churches and schools, § 4-2; restrictions on locating retail liquor establishments near churches and schools, § 4-1; animals, Ch. 5; noise regulations, § 9-66 et seq.; littering regulations, § 9-81 et seq.; solid waste, Ch. 13; utilities, Ch. 15; connection to water system required, § 15-36; cross connection control on backflow prevention required, § 15-81 et seq.; construction of private sewer lines and systems, § 15-111.

ARTICLE I. - IN GENERAL

Sec. 6-1. - Swimming pools.

(a) Definitions:

Abandoned condition means that the swimming pool has not been maintained in operational condition for a period of thirty (30) days or more.

Operational condition means that the swimming pool is kept filled with clean, properly chlorinated water, which is free of algae and foreign matter, and which permits the bottom of the swimming pool to be clearly visible from the edge.

(b) Individuals who either have swimming pools on their property or manage property on which there is a swimming pool shall register the swimming pool with the village clerk on or before January 31 of each year.

- (c) On or before January 31 of each year, individuals who own, reside at, or manage property on which there is a swimming pool shall submit the form shown on appendix A to the ordinance from which this section is derived, kept on file in the office of the village clerk, to the village clerk.
- (d) Individuals who reside, own, or manage the property on which the swimming pool is located shall be jointly and severally responsible for complying with this section.
- (e) All swimming pools shall be maintained in a clean, sanitary, and operational condition at all times.
- (f) Swimming pools shall be maintained free of algae and foreign matter at all times.
- (g) Swimming pools may be drained for necessary repairs, provided that the swimming pool is restored to operational condition within ten (10) days from the time it is drained.
- (h) The provisions of subsection (g) above, may be extended for good cause, which shall include that the individual, after acting with due diligence, was unable to have the repairs completed within the time prescribed.
- (i) All swimming pools shall have a continuous enclosure around the entire perimeter, except for a secured entryway.
- (j) The enclosure shall be at least four (4) feet in height. The entrance to the enclosure shall have a door or gate with a secured latch, which is located no lower than three (3) feet six (6) inches from the ground on the inside of the door or gate.
- (k) The door or gate to the swimming pool area shall be kept closed and latched securely at all times.
- (l) All swimming pools registered with the village will be inspected at least once a year.
- (m) If it is determined upon inspection or based upon a complaint that the swimming pool or the enclosure are in violation of any provision of this section, the village official shall issue a written warning to the individual responsible for maintaining the swimming pool.
- (n) In the event that a swimming pool is determined to be in an abandoned condition, the following procedure shall apply:
 - (1) The village official shall issue a written notice of intent to have the swimming pool declared abandoned.
 - (2) The individual who is issued the written notice shall respond to the notice in writing within ten (10) days of issuance, setting forth any reason why the swimming pool shall not be declared abandoned, including all action which they intend to undertake to remedy the existing condition.
 - (3) The matter shall then be processed in accordance with the procedure for code violations under this Code.
 - (4) If, after a hearing before the code enforcement hearing officer, it is found that the swimming pool is abandoned, the violator shall be required to remove the swimming pool, with such removal being in accordance with the relevant provision of the South Florida Building Code.
- (o) The written warning issued pursuant to subsection (m) above, shall require the individual responsible for maintaining the swimming pool or enclosure to correct the violation within ten (10) days from the date of the issuance of the warning. If the violation is not corrected within the prescribed time, subject to the provisions of subsection (h) above, the individual will be subject to the issuance of a citation for violation of this section.
- (p) Any person who violates any of the provisions of this section shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.
- (q) If it is determined that a violation of this section was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.

- (r) Any fine imposed for violation of this section or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 297, §§ 1—18, 5-15-97)

Editor's note— Ord. No. 297, §§ 1—18, adopted May 15, 1997, did not specifically amend the Code; hence inclusion as a new § 6-1 was at the editor's discretion.

Sec. 6-2. - Painting and maintenance of exterior of residential and commercial properties.

- (a) All residential and commercial structures in the village shall be painted at all times. This means that exterior surfaces shall be covered uniformly by at least one coat of painting or texture, except that wood exterior structures may be maintained in their natural color.
- (b) Any residential or commercial property which is stripped of paint or evidences substantial discoloration or peeling shall be repainted within thirty (30) days.
- (c) If it is determined upon inspection or based upon a complaint that a structure is in violation of any provision of this section, the village official shall issue a written warning to the individual responsible for maintaining the structure.
- (d) The warning issued pursuant to subsection (c) of this section shall require the individual responsible for maintaining the structure to correct the violation within thirty (30) days from the date of the issuance of the warning. If the violation is not corrected within the prescribed time, the individual will be subject to the issuance of a citation for violation of this section.
- (e) Any person who violates any of the provisions of this section shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.
- (f) If it is determined that a violation of this section was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.
- (g) Any fine imposed for violation of this section or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 298, §§ 1—7, 5-15-97; Ord. No. 309, 10-21-99)

Sec. 6-3. - Certificates of re-occupancy.

- (a) *Residential dwellings—Inspection and certificate of re-occupancy required.*
 - (1) No person, firm, corporation, or entity of any kind may buy, sell, convey, or otherwise transfer any residential dwelling unit within the Village of Virginia Gardens without:
 - a. First requesting and having an inspection performed by the village building department;
 - b. Obtaining a certificate of re-occupancy issued by the building inspector or inspector's designee.
 - (2) Multi-unit residential buildings—Additional requirements:
 - a. In addition to the requirements imposed by subsection (a) of this section, any person, firm, corporation, or entity of any kind that proposes to buy, sell, convey, or otherwise transfer any multi-unit residential building comprised of six (6) or more units, shall provide to the village building inspector with the following:

1. A certificate issued by a duly licensed architect or engineer certifying that the structural components of the building have been inspected and conforms with or to the minimum requirements established by relevant and applicable codes, rules, and regulations;
 2. A certificate issued by the fire marshal or other fire authority certifying that the building has been inspected and is in compliance with the relevant provisions of the fire code;
 3. A certificate issued by a duly licensed professional certifying that the building has been inspected for mold and mildew and indicating the results; and
 4. A certificate issued by a duly licensed professional certifying that the building has been inspected for rodents, termites, and pests, and indicating the results.
- (3) Notification to all buyers. No person, firm, corporation, or entity of any kind may close on the transfer or conveyance of any residential dwelling unit owned by such person, firm, or corporation or entity, without first disclosing by written notice to the buyer, grantee, or transferee the fact that an inspection and certificate of re-occupancy is required by the code enforcement ordinance of the Village of Virginia Gardens.
- (b) *Application for inspection and re-occupancy certificate.* An application for an inspection and certificate of re-occupancy shall be made by the owner, seller, or other transferor, or the designated agent or representative of such individuals or entities, upon a form provided by the village.
- (c) *Fee.*
- (1) *Inspection fee.* An applicant shall pay the village an inspection as follows:
 - a. For any single-family or duplex, fifty dollars (\$50.00) for the inspection.
 - b. For each additional unit an additional fifteen dollars (\$15.00) per unit.
 - (2) *Certificate of re-occupancy.* An applicant shall pay the village a certificate of re-occupancy fee as follows:
 - a. For any single-family or duplex, fifty dollars (\$50.00) for the inspection.
 - b. For each additional unit an additional five dollars (\$5.00) per unit.
- (d) *Issuance of certificate.* Within ten (10) working days of receipt of the application and fee, an inspector shall inspect the dwelling or multi-unit building, prepare an inspection report, and if such dwelling or multi-unit building is found to be in compliance and in conformance with the provisions of the applicable zoning, building, occupancy, and safety codes, rules, and regulations, a certificate of re-occupancy shall be issued.

If the dwelling or multi-unit building is not in compliance or conformance with the provisions of the applicable zoning, building, occupancy, and safety codes, rules, and regulations the inspector or the inspector's designee shall indicate by itemized list the corrective action required, and the certificate of re-occupancy shall be withheld unless and until the applicable provisions of the zoning, building, and occupancy codes, rules, and regulations are complied with, to the reasonable satisfaction of the inspector or the inspector's designee.

In addition, a certificate of re-occupancy shall not be issued for any multi-unit building comprised of six (6) or more units unless and until all of the certificates of inspections required by subsection (a)(2) of this section are furnished to the village inspector and made a part of the file for such multi-unit building.

- (e) *Contents of certificate.* The certificate of re-occupancy, if issued, shall state that the inspector or the inspector's designee inspected the dwelling and/or multi-unit building and has determined that the dwelling or multi-unit building is in compliance with the applicable provisions of the zoning, building, occupancy, and safety codes, rules, and regulations of the village, as follows:
- (1) As to any single-family pertaining solely to the requirement that each individual unit is used, designed, or intended to be occupied and used for a single-family residential purpose only, as required by the zoning and occupancy code, rule, or regulation.

- (2) As to any multi-tenant or multi-unit building, pertaining solely to the requirement that the building and each unit were inspected, in accordance with this section and complies with the relevant requirements of zoning, building, occupancy, and safety codes, rules, and regulations of the village.
- (f) *Restriction on inspection.* Information gained or conditions observed in the course of an inspection conducted pursuant to the authority of this "certificate of re-occupancy" section shall not be utilized by the code enforcement officers of the village as the basis for issuing, initiating, or otherwise pursuing any code enforcement violation proceedings other than for a violation of the relevant provisions of the health, safety, zoning, use, and occupancy code, rules, or regulations pertaining to single-family use and occupancy directly addressed by the inspection made under this section. This shall not preclude other enforcement action brought upon the basis of information gained or violation observed by other lawful means.
- (g) *Authority to settle.* The mayor or the mayor's designee shall have authority to enter into settlement agreements and issue conditional certificates of re-occupancy which shall be executed by the buyer and seller. A conditional certificate re-occupancy shall not be issued where life-safety violation exist on the property.
- (h) *Penalty.* Any person who violates any of the provisions of this section shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.
- (i) *Cost.* If it is determined that a violation of this section was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.
- (j) *Liens.* Any fine imposed for violation of this section or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 323, §§ 1—10, 8-19-04; Ord. No. 336, §§ 1—10, 6-21-07)

Sec. 6-4. - Temporary storage units.

- (a) *Definitions:* The following words and phrases, when used in this section, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:
- (1) *Storage unit:* Any type of container, structure, trailer, or module which is intended, designed, or in any manner used or employed for any kind of storage, including any kind of vehicle or device, with or without motive power, designed for carrying or transporting persons, merchandise, property, and/or for being drawn by a motor vehicle.
- (2) *Temporary:* A limited period of time, not to exceed sixty (60) days.
- (b) *Prohibition:* It is prohibited for any individual or entity to place or maintain any storage unit within the village, except when temporarily necessary in connection with:
- (1) a repair, service, and/or construction project; or
- (2) An emergency condition which requires the immediate movement or relocation of furniture, equipment, personal property, household items, inventory, or similar personal or business property.
- (c) *Use of motor vehicles for storage prohibited:* The use of any motor vehicle for storage is prohibited. It is prohibited to place, park, or keep any motor vehicle on any site within the village for the purpose of using said motor vehicle for storage, regardless of whether or not said motor vehicle has affixed to it a current and valid license plate and validation sticker.
- (d) *Limitation of length of time:* A permit for the placement of a temporary storage unit shall be issued initially only for a period of sixty (60) days. After issuance of the initial permit, the permit may be renewed only twice thereafter, each period of renewal being no longer than sixty (60) days. No

temporary storage unit shall remain on any residential or commercial site within the village for a period greater than one hundred and eighty (180) days.

- (e) *Permit required:* A temporary storage unit shall only be permitted in connection with a properly issued permit for repair, service, and/or construction project or work at the designated residential or commercial site within the village. However, in the event of an emergency, the owner or occupant of the residential or commercial site or any properly licensed contractor responding to or performing emergency repairs or services at the site within the village may place a temporary storage unit on the site, provided an application for a permit is made within five (5) working days of the placement of the temporary storage unit of the site.
- (f) *Limitation on items placed or stored:* It is prohibited to place, keep, or store any hazardous, incendiary, combustible, noxious, or pernicious materials in any temporary storage unit.
- (g) *Location:* Temporary storage units shall be placed only within the boundaries of the property where these are being used. It is prohibited to place a temporary storage unit in any swale, public property, or sidewalk, or in such a manner that any portion of the temporary storage unit protrudes, extends, or encroaches into or over any part of any adjacent private or public property, swale, public property, or sidewalk.
- (h) *Persons responsible:* The following persons shall all be jointly and severally responsible for complying with the provisions of this section:
 - (1) The owner of the real property;
 - (2) Any person leasing, renting, or otherwise in actual possession or occupancy of the real property;
 - (3) Any individual or entity engaged in rendering any construction or repair service; and
 - (4) Any individual or entity renting or providing any temporary storage unit to any site in the village.
- (i) *Enforcement procedure:*
 - (1) In the event that the owner of the real property where the violation of this section occurs is not in possession of the real property at the time of the violation, the village clerk shall provide notification, by certified mail, to said property owner advising them of the occurrence of a violation on their property, and also advising them that failure to correct the violation within five (5) days will result in the issuance of a citation.
 - (2) In addition to the notification to the absentee owner of the real property where the violation of this section occurs, any enforcement officer of the village may issue a citation for violation of this section to any individual or entity who is in actual possession of the real property at the time of the violation. The village clerk shall provide a copy of the citation together with the notification provided for in this section, by certified mail, to the absentee property owner advising them of the occurrence of a violation on their property, the issuance of a citation against their tenant.
- (j) *Penalty:*
 - (1) Any person who violates any of the provisions of this section shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.
 - (2) In addition to any penalty provided for in this section, the village may initiate proceedings to revoke the occupational license of any business or commercial establishment that violates this section.
- (k) *Cost:* If it is determined that a violation of this section was committed, all costs associated with the investigation and enforcement proceedings shall be assessed against the violator.
- (j) *Lien:* Any fine imposed for violation of this section or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

- (l) *Unpaid fine:* In the event that any fine imposed for violation of this section or any assessment of costs related to the enforcement proceedings under this section shall remain unpaid at the time of renewal of the occupational license, the village clerk shall not issue a renewal of the occupational license until such fine or assessment is paid.

(Ord. No. 328, §§ 1—13, 7-21-05)

Secs. 6-5—6-25. - Reserved.

ARTICLE II. - ADMINISTRATION

Sec. 6-26. - Building, plumbing and electrical inspectors.

There is hereby established, under the building department of the village, the offices of building inspector, plumbing inspector and electrical inspector. The building, plumbing and electrical inspectors shall be appointed by the mayor with the consent of the village council. The qualifications of such inspectors and all personnel of the building department shall be established by the village council. The services of such inspectors shall be paid for from funds derived from the building permit fees at a rate to be established from time to time by resolution of the village council.

(Code 1967, § 2-1)

Sec. 6-27. - Assistant building inspector.

- (a) There shall be and is hereby created the appointive position of assistant building inspector.
- (b) The assistant building inspector shall have the same duties, obligations, responsibilities, jurisdiction and all other powers as heretofore given by the village council to the building inspector.
- (c) In the event of any dispute between the building inspector and the assistant building inspector concerning opinions, judgments, rules, regulations or other matters to be determined by the building inspector or assistant building inspector, the building inspector's decision shall prevail and be binding.

(Code 1967, § 2-1.1)

Secs. 6-28—6-45. - Reserved.

ARTICLE III. - BUILDING CONSTRUCTION

DIVISION 1. - GENERALLY

Secs. 6-46—6-55. - Reserved.

DIVISION 2. - PERMITS AND INSPECTIONS

Sec. 6-56. - Approval of plan required in issuance of building permit.

Prior to the issuance of any building permit, except as provided in section 6-57, by the village clerk, the plan for which the permit is requested shall be on file with the village clerk and shall have been reviewed by and been approved by the following:

- (1) Beautification committee;

- (2) Building inspector;
- (3) Electrical inspector;
- (4) Plumbing inspector;
- (5) Water director;
- (6) Village engineer;
- (7) Zoning department.

(Code 1967, § 6-6)

Sec. 6-57. - Affidavit necessary for conditional building permit for additions to single-family dwellings.

No building permits for additions to existing single-family homes within the village shall be issued unless the applicant or owner of the premises wherein such addition is to occur shall file an affidavit. The affidavit shall state that the addition will not be used for rental purposes while the owner resides on the property and if the residence is rented in its entirety, no portion of such premises should be separated for rental.

(Code 1967, § 6-3)

Cross reference— Single-family residential districts, § 16-111 et seq.

Sec. 6-58. - Building permits for remodeling single-family dwellings.

- (a) In request for remodeling of a single-family home, prior approval of the zoning department and the building inspector only will be required prior to the issuing of a permit, provided there is no electrical or plumbing work to be done.
- (b) In the event electrical or plumbing work is to be performed, approval of the electrical inspector and plumbing inspector in addition to the zoning department and the building inspector will be required prior to the issuing of the permit.
- (c) In request for the construction of a single-family home, prior approval of the electrical inspector, plumbing inspector, building inspector and zoning department is required before the issuance of any permit.
- (d) In all cases involving any type of construction whatsoever where a variance or rezoning is necessary, in addition to all other requirements as heretofore set out, prior approval of the village council is required before the issuance of any permit.

(Code 1967, § 6-7)

Cross reference— Single-family residential district, § 16-111 et seq.

Sec. 6-59. - Covenants required prior to issuance of permit for improvements.

- (a) Prior to the issuance of any building permit concerning improvements to property within the village, the owner of such property and the general contractor, if any, making such improvements and the lender, if any, financing such improvements shall execute a covenant to sue, release and a covenant running with the land concerning inspections of such improvements made by the village.
- (b) The agreement to be executed in accordance with (a) above shall be in form substantially similar to the form below. In the event that the owner is acting as his own general contractor or the

construction on improvements is not being financed, the owner shall give an affidavit setting forth such facts and such affidavit shall be attached to the agreement and be made a part thereof. The agreement form is as follows:

AGREEMENT made this _____ day of _____, 19_____, by and between the Village of Virginia Gardens, Florida, herein sometimes referred to as the village, first party and _____, hereinafter referred to as owner, and _____, hereinafter referred to as general contractor, and _____, hereinafter referred to as lender, and collectively owner, general contractor and lender, sometimes collectively being referred to as second parties.

The parties recite and declare:

1. Owner is the owner of the following legally described property located in the village:

2. General contractor is constructing certain improvements thereon.
3. Lender is financing the cost of such improvements.
4. Village, for its own purpose and its own purpose only and for no other purpose whatsoever, is from time to time inspecting such improvements.

For the reasons set forth above, and in consideration of ten dollars (\$10.00) and other valuable consideration, it is hereby agreed by and between the parties:

SECTION I. Release. Second parties and those claiming by and through them do hereby release and forever discharge first party and its employees and municipal officers, whether elected or appointed, and agents, from all and any manner of action, causes, and causes of actions, claims and demands whatsoever which the second parties and those claiming by and through them may have or hereafter can have regardless of when said claim, demand or cause of action occurs and whether said claim, demand or cause of action is anticipated now or not, and notwithstanding the fact that said claim, demand or cause of action may occur in the future concerning any inspections undertaken by the village, its employees or agents whatsoever regarding the construction of improvements on the above-described property.

SECTION II. Covenant not to sue. Second parties and those claiming by and through them do agree never to institute any suit or action at law or in equity against first party and its employees and municipal officers, whether elected or appointed, and agents, by reason of any claim it may have against the first party, and its employees and municipal officers whether elected or appointed and its agents regardless of when said claim arises, which claim, either directly or indirectly, relates to inspection by the first party or its employees and municipal officers whether elected or appointed, and agents, concerning improvements to be constructed upon the above-described property.

Second parties and those claiming by and through them expressly agree that this instrument may be treated as a complete, conclusive defense to any action or proceeding that may be brought, instituted or taken by second parties and those claiming by and through them or in their behalf, against first party and its employees and municipal officers whether elected or appointed and agents regardless of when said claim arises, which claim, either directly or indirectly, relates to inspection by the first party or its employees and municipal officers, whether elected or appointed, and agents, concerning the subject matter hereof and this covenant not to sue shall forever be a complete bar to the commencement or prosecution of any such action or proceeding whatever.

SECTION III. Covenants running with the land. The provisions of this agreement shall constitute covenants which shall run with the above-described land. Covenants contained herein shall bind the

My commission expires:

General Contractor

State _____ of Florida _____)
)
)
County of Dade SS

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, personally appeared _____ to me known to be the person described in and who executed the foregoing instrument and _____ acknowledged before me that _____ executed the same on behalf of _____ .

WITNESS my hand and official seal in the county and state last aforesaid this _____ /
_____ / _____ day of _____ , 19 _____ .

Notary Public, State of Florida at Large

My commission expires:

Lender

State _____ of Florida _____)
)
)
County of Dade SS

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, personally appeared _____ to me known to be the person described in and who executed the foregoing instrument and _____ acknowledged before me that _____ executed the same on behalf of _____ .

WITNESS my hand and official seal in the county and state last aforesaid this _____ /
_____ / _____ day of _____ , 19 _____ .

Notary Public, State of Florida at Large

My commission expires:

(Code 1967, § 6-13)

Sec. 6-60. - Permit fee schedule.

Building and Zoning Department Fee Schedule Review

	Category Descriptions	Virginia Gardens - Current Fees
--	-----------------------	---------------------------------

A.	<i>General Information—Special Fees</i>	
	Code Compliance Fee - to Miami Dade County	\$0.60 per \$1,000.00
	Double Fees	Permit fee × 2
	Re-inspections Fees	\$15.00
	Courtesy Inspection Fees	\$50.00
	Lost, Revised Single Families	\$70.00
	Lost, Revised All Others	\$120.00
	Refunds, Time Limit	Up to 70% within 90 Days
	Expired Permits - Extension	50% ≤ \$100.00
	Permit Card Replacement	\$15.00
	Change of Contractor	30% of Permit Fee
	Shop Drawing Review	\$15.00
	Planning and Zoning Plan Review	\$50.00 ≤ \$20K/\$100.00 Over
	Structural Plan Review - Residential	\$75.00
	Structural Plan Review - Commercial	\$150.00
B.	<i>Burglar Alarm/Intercom Systems</i>	
	Master Control	\$20.00
	Each Device	\$1.00
C.	<i>Trees</i>	
	Tree Removal/Pruning or Trimming per Ordinance 274	\$25.00

D.	<i>Amusement Rides and Devices</i>	
	Each Portable/Temporary Unit - Max. 30 days	\$39.00
	Each Permanent Unit Installed or Altered	\$195.00
	Semi-annual Inspections/Permanent Install Only for Each Ride or Device	\$20.00
E.	<i>Building Permits</i>	
1.	Residential	\$75.00
	Up-front Processing Fee Per Square Foot - Residential	\$50.00 up to 2,000 SQF/\$100.00 Over
	Up-front Processing Fee Per Square Foot - Commercial	\$7.00 per 100 SQF
	Plans Processing Fee	\$25.00
	Construction Under \$1,000.00	\$100.00
	Construction Over \$1,000.00	2% per \$1,000.00 of cost
2.	Commercial	\$150.00
3.	New Building or Addition	\$20.00 per \$1,000.00 of cost
	New Building or Addition - Minimum Fee	\$100.00
	Single Family/Duplex	2% per \$1,000.00 of cost
	Commercial	3% per \$1,000.00 of cost
4.	Alterations and Repairs	\$20.00 per \$1,000.00 of cost
	New Building or Addition - Minimum Fee	\$100.00
	Single Family/Duplex	2% per \$1,000.00 of cost
	Commercial	3% per \$1,000.00 of cost

5.	Roofing	
	For first 2,000 square feet or fractional part of area	\$60.00
	For each additional 1,000 square feet or additional part	\$20.00
6.	Slabs Only - per first 1,000 square feet	\$25.00
	Slabs Only - each additional 1,000 square feet	\$10.00
7.	Paving Only - per first 1,000 square feet	\$35.00
	Paving Only - each additional 1,000 square feet	\$10.00
8.	Fences and/or Walls 0—500 linear feet	
	Chain Link Fences per 100 linear feet	up to 600 LF = \$25.00/Over = \$10.00 per 100 LF
	Wood/Iron Fence each linear feet per 100 linear feet	up to 600 LF = \$25.00/Over = \$10.00 per 100 LF
	CBS Fence each linear feet per 100 linear feet	\$1.00 per LF
9.	Swimming Pools/Spas up to 20,000 gallons	\$100.00
	Repair of Swimming Pool/Spa up to 20,000 gallons	\$50.00
10.	Utility Sheds - Maximum 100 square feet; over requires Variance	\$50.00
11.	Demolition of Buildings per 1,500 square feet - Residential	\$50.00
	Each additional 1,000 square feet	\$25.00
12.	Demolition of Buildings per 1,500 square feet - Commercial	\$100.00
	Each additional 1,000 square feet	\$50.00

13.	Trusses/Steel Structures first 600 square feet	up to 600 SQF = \$18.25
	Each additional 100 square feet	\$0.28
	Precast/Prestress each 1,000 square feet	\$9.31
	Overhead Doors	\$9.31
	Skylight	\$9.31
	Hand Rails	\$9.31
	Storefront/Fixed Glazing each square foot	\$10.39
	Walk-in Coolers	\$85.88
	Laminated Wood Beams first 600 square feet	\$23.00
	Each additional 100 square feet	\$1.20
	Post Tensioning first 600 square feet	\$23.00
	Each additional 100 square feet	\$1.20
	Structural Steel first 600 square feet	\$23.00
	Each additional 100 square feet	\$1.20
	Exterior Doors	\$12.00
	Tilt-up Walls each 1,000 square feet	\$12.00
	Post Tension DET/Calcs each 1,000 square feet	\$12.00
	Twin Tees - each 1,000 square feet	\$12.00
	Joists each 1,000 square feet	\$12.00
	Stairs per linear foot	\$1.65

	Composite Slab System first 600 square feet	\$23.00
	Each additional 100 square feet	\$1.20
14.	Temporary Platforms and Bleachers	
	For each 100 square feet	\$10.00
	For each 100 linear feet or fractional parts of seats	\$5.00
15.	Window/Door Installation per 100 square feet up to 1,000	\$6.00
	Window/Door Installation per each addtl 100 square feet	\$4.00
	Window/Door Installation - new up to 100 units	\$3.00
	Window/Door Installation - each additional unit	\$2.00
	Minimum Fee - Residential	\$50.00
	Minimum Fee - Commercial	\$75.00
16.	Shutters per square foot covered	
	Minimum Fee - Residential	\$50.00
	Minimum Fee - Commercial	\$100.00
17.	Ornamental Iron Work per square foot of coverage	
	Minimum Fee	\$50.00
18.	Screens Enclosures, Canopies and Awnings	
	Screen Enclosures each 100 square feet	\$50.00

	Freestanding and/or Attached Canopies - up to \$1,000.00 estimated cost	\$20.00
	Each additional \$1,000.00	\$6.00
	Minimum Fee	\$50.00
19.	Moving Buildings or other structures per square feet	
	Moving Buildings or other structures per square feet	\$72.00
	For each 100 square feet or fractional part	\$10.00
20.	Temporary Trailers (Construction/Offices/Misc Portables)	
	First 6 months	\$100.00
	Additional 3 months	\$50.00
	Tie Down Inspection Fee	\$50.00
21.	Sign Permits (up to 80 square feet)	\$50.00
	Over 80 square feet requires an approved Variance	\$2.00 per SQF over
	Commercial Contractor/Realtor signs	\$20.00
22.	Satellite Dish - Larger than 5' diameter	\$100.00
23.	Communications Antennas/Towers	\$100.00
24.	Lightweight Insulating Concrete	\$100.00
	Soil Improvement/Land Clearing Permits	

25.		
	Single lot	\$50.00
	Up to 20 lots	\$100.00
26.	Additional Inspections	\$25.00
27.	Construction Completion Bond	
	For New Commercial - Refundable upon completion	\$250.00
F.	<i>Certificates of Occupancy/Completion</i>	
1.	Certificate of Occupancy	
	Single Family/Townhouse	\$50.00
	Duplexes	\$50.00
	Apartments/Hotels/Motor Hotels 3—50 [units]	\$100.00
	51—100 units	\$125.00
	101—200 units	\$150.00
	Over 201 units	\$175.00
2.	Certificate of Completion	\$50.00
3.	Temporary Certificate of Occupancy/Completion	\$25.00 - applicable to final CO
4.	Certificates of Re-occupancy	
	Inspection - First unit	\$50.00
	Inspection - Each additional unit	\$15.00

	Single Family/Duplexes - First unit	\$50.00
	Single Family/Duplexes - Each additional unit	\$5.00
	Multi Units (6 or more) - First unit	\$50.00
	Multi Units (6 or more) - Each additional unit	\$5.00
G.	<i>Plumbing Permit Fees</i>	
1.	Minimum Plumbing or Gas Fee	\$100.00
2.	Residential Plumbing R3 per square feet	\$0.15
	Minimum Fee	\$100.00
3.	Residential/Commercial for Watch Rough-In	\$10.00
4.	Settling/Septic Tank/Grease Traps - Up to 1,200 gallons or less	\$45.00
	Over 1,200 gallon capacity	\$90.00
	Abandonment (Septic/Drain) under 1,200 gallons	\$120.00
	Abandonment (Septic/Drain) over 1,200 gallons	\$145.00
5.	Sewer	\$50.00
6.	Water Piping	\$20.00
	Connection	\$12.00
	Repair Water Piping for each \$100.00	\$16.00/min. is \$100.00
	Fire Sprinkler System Connection to City Water	\$20.00
	Fire Control System - Standpipe/Hose Rack/Hose Bib	\$15.00
	Inches 2" of less water backflow assembly	\$50.00

	Inches 2½" or larger	\$75.00
	Irrigation System and Underground Sprinkler System (Lawn)	\$35.00
	Solar Eater-Heater Installation, Equipment Replacement or Repair	\$100.00
	Replace Solar Panel	\$100.00
7.	Swimming Pool - Plumbing	
	Residential	\$75.00
	Residential with Spa	\$112.00
	Commercial/Industrial	\$100.00
	Commercial/Industrial with Spa	\$240.00
	Sump Pump	\$20.00
	Swimming Pool Heater	\$50.00
	Swimming Pool Maintenance	\$50.00
	Each repair to water piping	\$15.00
8.	Wells	
	Residential	\$50.00
	Commercial	\$100.00
9.	Natural Gas or Liquefied Petroleum (underground LP tanks)	\$50.00
	Group R3	\$15.00
	For each appliance	\$10.00

	Other group	\$15.00
	For each appliance	\$10.00
10.	Water Treatment Plants	\$300.00
	Sewage Treatment	\$250.00
	Lift Station	\$350.00
11.	Water and Gas Mains each 50 feet	\$10.00
	Minimum Fee	\$140.00
12.	Storm/Sanitary Utility each 50 feet	\$10.00
	Each manhole	\$15.00
	Minimum Fee	\$140.00
13.	Temporary Toilets - First and Renewal	\$75.00
	Each additional	\$25.00
14.	Dental Vacuum Lines - per system	\$85.00
15.	Mobile Home Connections	\$85.00
16.	Medical Gas - Installation per \$1,000.00 value	\$20.00
	Minimum Fee	\$100.00
	Air Compressors - each unit	\$100.00

17.		
18.	Air Compressor Piping per \$1,000.00 value or part thereof	\$20.00
19.	Annual Facility Permit Fee per trade per number of employees	\$75.00
	Minimum Fee	\$500.00
20.	Additional Inspections/Per Re-inspection	\$50.00
H.	<i>Electrical Permit Fees</i>	
1.	Minimum	\$75.00
2.	Permanent Service	
	Each 100 amps	\$30.00
	Over 100 amperes to 200 amperes	\$35.00
	Over 200 amperes to 400 amperes	\$40.00
	Over 400 amperes to 600 amperes	\$50.00
	Over 600 amperes to 800 amperes	\$55.00
	Each 100 amperes over 800 amperes	\$10.00
	Service or Panel Repair, minor	\$40.00
	Reconnect Meter	\$50.00
	Feeders - each	\$20.00
3.	Switchboards (same as amperes above)	Same as amperes above
4.	Agricultural Service (permanent)	\$100.00

5.	Temporary Service for Construction per service	\$75.00
6.	Construction Field Office Service	\$200.00
7.	Mobile Home - Residential	\$100.00
8.	Temporary Service Test - Commercial only	\$100.00
	Equipment and Service (30-day limit) per service	\$150.00
	Equipment Outlets/Connections, each (see listing)	\$10.00
	Elevator (180-day limit) per elevator	\$100.00
9.	Residential Wiring	
	New Construction and Additions per each square foot of floor area	\$10.00
	Minimum Fee	\$100.00
10.	All Other Wiring and Outlet	
	Boxes, Receptacles, Switches, etc. - each outlet box	\$2.30
	Special Outlets - Commercial Equipment, Permanent Generators	\$15.00
	Motors Installed - each - see listing	(from: \$7.00 to \$40.00)
	Air Conditioning and Refrigeration System	\$75.00 per ton
	Replacement or Relocation per KW or ton - see listing	\$75.00 per ton
	Demolition - Residential or Commercial	\$75.00
11.	Machine Outlet or Permanent Connections	

	X-ray Portable - Doctor/Dentist	\$100.00 per unit
	X-ray Stationary - Doctor/Dentist	\$500.00
12.	Welding Machine Quiets	
	Up to 25 amperes	\$10.00
	Over 25 amperes to 50 amperes	\$15.00
	Over 50 amperes - add \$5.00 for each additional ampere or part	\$20.00
13.	Lighting Fixtures	\$5.00
	Per Fixture	\$2.00
	Light Track - each 5 feet	\$5.00
	Neon Strips - each 5 feet	\$5.00
	Feed Rail - each 5 feet	\$5.00
	Light Pole Group R3	\$20.00
	Light Pole Commercial	\$25.00
14.	Signs and Architectural Features	
	Electrical Sign per square foot	\$2.00
	Neon Strips - each 5 feet or fractional part	\$5.00
	Minimum Fee	\$100.00
15.	Temporary Work on Circuses, Carnivals/Rides	\$150.00

16.	Fire Detection System	
	Per system	\$150.00
	Repair and Additions	\$100.00
	Devices over 15 - each	\$2.00
	Smoke Detectors	\$3.00
17.	Sound System	\$100.00
	Each device	\$5.00
18.	Burglar Alarm	R-3 = \$25.00//COMM = \$100.00
19.	Intercom System	R-3 = \$25.00//COMM = \$100.00
20.	Energy Management System - Floor	\$150.00
	Repair per floor	\$85.00
21.	Swimming Pools - Electrical	R-3 - \$85.00//COMM = \$100.00
	Combination Spa	R-3 = \$100.00//COMM = \$150.00
	Commercial and Multi Family	\$150.00
	Combination Spa	\$200.00
	Repair - Residential	\$85.00
	Repair - Commercial	\$125.00

22.	Freestanding Service	\$125.00
23.	Conduit Duct Bank per linear foot	\$250.00
24.	Ground Wire for Screen Bonding	\$85.00
25.	FPL Load Management	\$100.00
26.	Underground Manholes	\$135.00
27.	Flight Simulator - each	\$150.00
28.	Annual Facility Permits	
	Multiply Number of Employees by Fee	\$50.00
	Minimum Facility Permit Fee per Trade	\$1,000.00
	Additional Inspections	\$50.00
I.	<i>Mechanical Permit Fees</i>	
1.	Mechanical Permit Fee - Minimum	\$100.00
2.	Mechanical Single Family/Duplex per square foot	\$0.10
3.	Air Conditioning - per ton	\$20.00
	Minimum Fee	\$20.00
	Room Air Conditioning	\$20.00
	Drain, each	\$6.00

	Relocate COMPRESSor to Different Location	\$15.00 per \$1,000.00
4.	Furnaces	
	For each KW	\$25.00
	Minimum Fee	\$10.00
5.	Storage Tanks for Flammable Liquid/Tank	\$100.00
6.	Internal Combustion Engines/each	\$100.00
	Pressure and Process Piping/Sheet Metal/Duct Work	\$20.00
	Over \$1,000.000	\$10.00/min. fee \$50.00
7.	Commercial Kitchen Hoods	\$150.00
8.	Other Fees	
	Fire Sprinkler System - per sprinkler head	\$2.50
	Fire Chemical - CO2/Dry Powder systems	\$100.00
	Each \$1,000.00 or fractional part of contract cost	\$15.00
	Minimum Fee	\$100.00
	Yearly Smoke Evacuation Test/System	\$150.00
9.	Annual Facility Permit - Inspections	\$50.00
	Multiply Number of Employees by Fee per Trade	\$200.00
10.	Additional Inspections	\$50.00
J.	<i>Boilers and Pressure Vessels</i>	
1.	Boilers/Hot Steam and Steam Driven	\$130.00

	Miniature per ASME	\$75.00
	Unfired Pressure Vessels	\$75.00
2.	Fee for Periodic Inspection - Internal	\$100.00
	Fee for Periodic Inspection - External and Hot Water Boilers	\$100.00
	Fee for Periodic Inspection - Unfired Pressure Vessels	\$100.00
	Fee for Periodic Inspection - Miniature Boilers/Semi-annual	\$100.00
K.	<i>Elevators, Escalators/Other Lifting</i>	
1.	Passenger and Freight Elevators	\$100.00
	Each Landing other than first floor	\$20.00
	Escalators, Manlifts, Dumbwaiters Other Apparatus	\$100.00
2.	Fee for Periodic Inspection - Passenger - Annual	\$75.00
	Fee for Periodic Inspection - Freight/Escalators/Manlifts	\$50.00
	Fee for Periodic Inspection - Dumbwaiters/Other Apparatus	\$25.00
L.	<i>Planning and Zoning Department Fees</i>	
1.	Variances - Residential - under \$10,0000.00	\$75.00
2.	Variances - Commercial - under \$10,00.000	\$100.00
	Building Projects over \$10,000.00 Residential	\$125.00
	Building Projects over \$10,000.00 Commercial	\$200.00
3.	Site Plan Review	\$60.00

	Amendment to Approved Site Plans	\$30.00
4.	Public Works Review Fees	Per MDC PW Fee Schedule
5.	Zoning Letters	\$10.00
6.	Hearing Tapes	\$10.00
7.	Other Processing	\$25.00
8.	Building Violations	\$250.00
9.	40 Year Certification Fee - Initial cost	\$150.00
	40 Year Certification Fee - Each ten-year interval	\$150.00

(Code 1967, § 6-8; Ord. No. 290, § 1, 10-20-94; Ord. No. 351, § 1(Exh. A), 11-18-2012)

Editor's note— Ord. No. 351, § 1(Exh. A), adopted Nov. 18, 2012, did not specifically amend the Code; hence, inclusion herein as superseding former § 6-60 was at the editor's discretion.

Sec. 6-61. - Double fees.

- (a) When work for which a permit is required is started prior to the obtaining of a permit, the applicant for a permit shall be required to pay one hundred dollars (\$100.00) plus double the fee as specified in section 6-60 as the cost of the permit.
- (b) The payment of such double fee shall not relieve any person, firm or corporation from fully complying with all of the requirements of all applicable regulations and codes, nor shall it relieve them from being subject to any of the penalties therein. The double fee requirements shall be applicable to all divisions of the building and zoning department.

(Code 1967, § 6-9; Ord. No. 290, § 2, 10-20-94)

Sec. 6-62. - Reinspection.

- (a) When extra inspection trips are necessary due to:
 - (1) Wrong address being given on call for inspection;
 - (2) Prior rejection of work due to faulty construction;
 - (3) Work not being ready for inspection at time specified;
 - (4) Failure to call for final or other inspections; or
 - (5) Required corrections not being made or completed at time specified,

A fee of fifteen dollars (\$15.00) for each reinspection may be charged to the permit holder.

- (b) If it is determined by the inspector that the job has the same problem after the reinspection fee is assessed and paid, then a second reinspection fee of thirty-seven dollars and fifty cents (\$37.50) shall be charged. The reinspection fee requirement shall be applicable to all divisions of the building and zoning department.
- (c) The payment of reinspection fees may be required before any further permits will be issued to the person or firm owing same, and further inspections may be refused until payment of reinspection fees has been made.
- (d) The reinspection fee for inspection of existing buildings by all divisions to determine compliance with the South Florida Building Code, but not annual inspections, shall be fifteen dollars (\$15.00) per inspection.

(Code 1967, § 6-10; Ord. No. 290, § 3, 10-20-94)

Sec. 6-63. - Permit renewal.

Permits expire six (6) months from the date of issue. Renewal for six (6) months may be obtained by payment of one-half of the original permit fee. The amount of the renewal fee shall be based upon the then existing permit fee amount.

(Code 1967, § 6-11; Ord. No. 290, § 4, 10-20-94)

Sec. 6-64. - Plans requiring county approval.

An additional fee of thirty (30) percent of the permit fee charged shall be assessed for any plans requiring the approval of the county building and zoning department. This fee is the amount charged each municipality by the county for this service.

(Code 1967, § 6-12; Ord. No. 290, § 5, 10-20-90)

Secs. 6-65—6-75. - Reserved.

DIVISION 3. - STANDARDS

Sec. 6-76. - South Florida Building Code adopted by reference.

The South Florida Building Code adopted and approved by the county, is hereby adopted as the building code of the village by reference as though fully set out in this chapter. One (1) copy of such code is filed for record with the village clerk. All construction, maintenance and improvements of buildings shall be required to comply with such code.

(Code 1967, § 6-1)

Sec. 6-77. - Landscaping plans.

The applicant in making any request for landscaping approval or for approval of building plans under applicable ordinances and resolutions of the village shall provide landscaping plans certified by a landscaping architect to the reviewing authorities responsible for such approval. This section shall not be applicable to approval of building plans for single-family dwellings.

(Code 1967, § 6-2)

Secs. 6-78—6-80. - Reserved.

DIVISION 4. - MAINTENANCE OF CONSTRUCTION SITES

Sec. 6-81. - Definitions.

The following words and phrases, when used in this division, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires or clearly indicates a different meaning:

Adverse weather conditions means any hurricane, tropical storm, or windstorm affecting the South Florida area.

Construction materials means any lumber, board, plank, plywood, particle board, block, brick, mortar, cement, rock, conduit, pipe, tubing, floor tile, roof tile, felt or tar paper, mesh, stud, drywall, sheetrock, appliance, and fixture.

Construction site means any location, site, place, or property where any kind of construction, repair work, or demolition is occurring.

Construction waste and/or debris means any discarded piece, scrap, and remnant of any lumber, board, plank, plywood, particle board, block, brick, mortar, cement, rock, conduit, pipe, tubing, floor tiles, roof tiles, felt or tar paper, mesh, stud, drywall, and sheetrock.

Construction equipment means any tool, apparatus, or implement, including any portable sanitation unit.

Reasonably clean condition means that there is no accumulation of waste or debris of any kind on the site, whether in a heap, pile, or scattered, a site shall be considered "reasonably clean" if waste and debris is placed in an approved dumpster or roll off container on the site, provided the height of the waste and debris in the dumpster or roll off container does not exceed beyond the top of the dumpster or roll off container at any time.

Responsible party means the persons or entities who is responsible for and supervising the activity being conducted on the site, and includes, in order of seniority, the following:

- (1) The individual or entity procuring the permit for the activity occurring on the site;
- (2) The general contractor, qualifier, or construction manager of the project or activity occurring on the site;
- (3) Any subcontractor who caused the materials to be brought to the site;
- (4) Any architect, engineer, or special inspector;
- (5) The developer or owner of the site, or any of their representatives.

Secure means to remove all uninstalled construction materials from any roof or elevated place and to store the materials indoors or on the ground anchored with approved anchors capable of withstanding winds as provided for in the current edition of the Florida Building Code, in such a manner as to prevent the material from becoming airborne, and shall include bundling or palletizing materials with strapping, provided the materials are anchored as required under this definition.

(Ord. No. 329, § 1, 7-21-05)

Sec. 6-82. - Site requirements.

The following requirements shall continually apply to all construction sites within the village:

- (1) Responsible parties shall keep the construction site in a reasonably clean condition, free of any accumulation of unsecured construction materials, construction waste or debris at all times.
- (2) Construction waste and debris shall only be placed or kept in a container, dumpster, roll-off container, or other receptacle.
- (3) Construction waste and debris shall be removed from any construction site within the boundaries of the village, no less once every twenty (20) days, provided that the height of the waste and debris placed in any container, dumpster, roll off container, or other receptacle shall not exceed beyond the top of the container, dumpster, roll off container, or receptacle at any time.
- (4) Responsible parties shall neither place, keep, nor permit the placement of any construction materials in an unsecured manner on any property within the municipal boundaries of the village for a period in excess of ten (10) working days.
- (5) From June 1 to November 30 of each calendar year (the National Weather Service designated hurricane season), building or roofing materials shall be loaded on a roof no earlier than ten (10) working days prior to the permanent installation of those materials.
- (6) Responsible parties shall not place nor keep construction materials on any roof or other elevated place above ground level on any property within the municipal boundaries of the village for a period in excess of twenty (20) working days.

(Ord. No. 329, § 2, 7-21-05)

Sec. 6-83. - Storm or hurricane warnings.

No later than ten (10) hours after a hurricane watch for any part of Miami-Dade County is issued by the United States Weather Bureau, or Miami-Dade County declares a state of emergency due to an impending storm or hurricane, or the Miami-Dade County Emergency Operations Center is activated, responsible parties shall have done all of the following:

- (1) Removed all materials in the exterior exposed areas of structures certified for occupancy by the village, unless such materials have been permanently affixed to the ground or the structure, or properly anchored;
- (2) Removed all loose construction waste and debris from the site;
- (3) Removed all loose construction materials, including roof tiles, that are not fastened or secured to the ground or any permanent structure, or properly anchored;
- (4) Removed all construction materials from any roof or other elevated place above ground level, causing such materials to be secured on the ground or inside a secured structure;
- (5) Secured any and all construction materials, either inside a secured structure or by banding such material together and securely anchoring it to the ground or to a structure;
- (6) Had all portable toilets or sanitation facilities on the site pumped out and secured;
- (7) Any waste container which contains waste or debris, shall either be removed from the site or securely covered by a strapped down ventilated material or tarp which shall cover the container preventing any waste or debris from becoming airborne.

(Ord. No. 329, § 3, 7-21-05)

Sec. 6-84. - Notice.

Media broadcasts, alerts, or other similar notices by any media source broadcasting warnings issued by the National Weather Service of severe weather shall be deemed sufficient notice to the responsible

party to comply with the provisions of this division, and to secure the site against the effects of hurricane force winds, as required by section 6-83.

(Ord. No. 329, § 4, 7-21-05)

Sec. 6-85. - Special hurricane inspections.

Upon a hurricane watch for any part of Miami-Dade County is issued by the United States Weather Bureau, or Miami-Dade County declares a state of emergency due to an impending storm or hurricane, or the Miami-Dade County Emergency Operations Center is activated, village personnel shall conduct an inspection of all sites to determine compliance with the provisions of this division.

- (1) In the event the village personnel find an existing violation of the provisions of this division, the village personnel shall issue a written order to comply to the responsible party. The order shall be given to a person on the premises most logically responsible for maintenance of the site, and/or if no person is present, the orders may be given by facsimile to the responsible entity if such entity is known.
- (2) Any responsible party receiving an order from the village to comply with this section shall comply with said order within the time specified on that order, but no later than twelve (12) hours before the anticipated arrival of storm or hurricane force winds (winds of seventy-four (74) miles per hour or greater).
- (3) In situations where the responsible party fails to secure a site or premises consistent with this section and pursuant to the orders of the village personnel, the village may enter and secure the site or premises for purposes of correcting the violation. The authority to enter and secure a site or premises for such purposes shall extend to any agency, company or firm retained by the village to effect compliance. In either situation, the responsible party for the violation shall reimburse the village for all costs of cleaning up, clearing, and securing the site or premises, including all costs associated with retaining an agency, company or firm to effect such compliance. This shall also include reimbursement for costs related to demolition or other measures deemed necessary to correct any hazardous structural conditions which are determined by the building official to present an imminent risk to the health, safety, and welfare of the community during the whether event.

(Ord. No. 329, § 5, 7-21-05)

Sec. 6-86. - Liability.

All responsible parties who are in any manner connected with any site where any development, construction, or building repair work is occurring are jointly and severally liable for observing and complying with the provisions of this section, and for causing all those who are performing any construction or repair work on the site to comply with the provisions of this section.

(Ord. No. 329, § 6, 7-21-05)

Sec. 6-87. - Abatement by village.

If any responsible party fails to remove all construction waste or debris, or remove all construction materials from any rooftop or other place elevated above ground level, and cause such materials to be secured on the ground, or to secure all construction materials, as required by this section, ten (10) hours after a storm or hurricane warning is announced, the village may take all reasonable and necessary steps to remove all waste and debris and secure the construction materials. If the village is required to remove waste or debris or secure construction materials because a responsible party has failed to do so, the responsible party shall be liable for all costs incurred by the village.

(Ord. No. 329, § 7, 7-21-05)

Sec. 6-88. - Permit applicants to be furnished copy of this division.

Upon making application for any permit related to construction or building repair, the applicant shall be provided with a copy of this division, and shall execute an acknowledgment that the applicant received a copy of this section and understands it.

(Ord. No. 329, § 8, 7-21-05)

Sec. 6-89. - Contact information required.

All individuals or entities applying for any permit to perform any construction or repair work with the village shall provide the clerk, together with the permit application, a letter with the full name and telephone number of all responsible parties. The contact information required by this section shall be such that the village can locate and contact any and all responsible parties at any time, twenty-four hours (24) a day, seven (7) days a week, including weekends and holidays.

(Ord. No. 329, § 9, 7-21-05)

Sec. 6-90. - Penalties, costs and liens.

- (a) *Penalty:* Any person who violates any of the provisions of this division shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.
- (b) *Costs:* If it is determined that a violation of this division was committed, all costs associated with the investigation and enforcement proceedings shall be assessed against the violator.
- (c) *Lien:* Any fine imposed for violation of this division or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 329, §§ 10—12, 7-21-05)

ARTICLE IV. - DISH ANTENNAS^[2]

Footnotes:

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Editor's note— Ord. No. 310, §§ 1—7, amended former Art. IV, §§ 6-91—6-97, in its entirety. Former Art. IV pertained to similar subject matter and derived from the Code of 1967.

Cross reference— Health, sanitation and nuisances, Ch. 9; licenses and business regulations, Ch. 10; streets, sidewalks and other public places, Ch. 14; zoning, Ch. 16; supplemental district regulations, § 16-216 et seq.

Sec. 6-91. - Definitions.

[The following words and phrases, when used in this section, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:]

Dish antenna shall mean a dish-shaped antenna intended for the purpose of receiving communications from satellites or other extraterrestrial sources.

Small dish antenna shall mean a dish-shaped antenna which does not exceed twenty-four (24) inches in diameter.

Large dish antenna shall mean a dish-shaped antenna which exceeds twenty-four (24) inches, but which is less than twelve (12) feet in diameter.

(Ord. No. 310, § 1, 12-16-99)

Sec. 6-92. - Criteria for construction or maintenance.

When permission is sought for the installation, construction, or maintenance of a (large) dish antenna, the following criteria shall be considered:

(1) *Location:*

- a. *Large dish antennas:* Private, non-commercial large dish antennas may be permitted in the village in connection with single or multifamily residential buildings of four (4) stories, provided that:
 1. In single- or two-story single-family residences they are located in the rear yard, and in multi-story residential building of two (2) stories or more a rooftop installation may be permitted as long as anchorage of the antenna complies with the requirements of the South Florida Building Code relative to structures;
 2. They are placed no closer to any property boundary line than a distance equal to their height, as measured from ground level to the top of the antenna dish, but in no event closer than five (5) feet to such boundary line;
 3. They do not encroach on any of the required side setbacks for the district in which they are located; and
 4. Where rear and side setbacks abut public lands such as recreational areas or schools, antenna dishes may be located in the rear yard within five (5) feet of the side and rear setback line when the dish is open in a horizontal position, notwithstanding the height thereof, not including streets, alleys, rights-of-way, or easements.
- b. *Small dish antennas:* Private non-commercial small dish antennas may be permitted in the village upon compliance with the following conditions:
 1. No dish antenna may be installed in the front yard of any property;
 2. A small dish antenna may be installed in the side or rear of any property.

(2) *Height:* (large dish antenna only) Private non-commercial large dish antennas shall not exceed fifteen (15) feet in height from ground level.

(3) *Diameter:* (large dish antenna only) Private non-commercial large dish antennas shall not exceed twelve (12) feet in diameter.

(4) *Screening:* (large dish antenna only) Landscape screening shall be maintained along the side and rear lot lines in such location, size and type as to obscure the antenna dish from the view from any opening, window or porch on the ground level or any abutting structure. Landscaping shall consist of trees and/or shrubs of such height and density, placed in such locations and in such proximity to the antenna dish as to obscure visibility of the large dish antenna as required herein.

(5) *Number allowed:*

- a. *Large dish antenna:*

1. Only one (1) private, non-commercial large dish antenna shall be allowed per single family home, duplex, townhouse unit, and/or multifamily buildings of less than three (3) stories.
 2. Multifamily buildings, commercial buildings, and industrial buildings of four (4) stories or more in height shall be allowed up to three (3) large dish antennas.
- b. *Small dish antenna:*
1. There shall be no more than one (1) small dish antenna installed on any single family residential homesite/unit in the village.
- (6) *Anchorage:*
- a. *Large dish antennas:* Large dish antennas shall be anchored securely to the ground or to a building's roof, in conformance with requirements of the South Florida Building Code.
 - b. *Small dish antennas:* Small dish antennas shall be anchored securely to the wall, the roof, or fascia of the residential building in conformance with requirements of the South Florida Building Code.
- (7) *Permit:*
- a. *Large dish antenna:* Anyone wishing to install or erect a private, non-commercial large dish antenna must first submit the plans for the dish antenna, together with a lot survey to show the location of the antenna on the lot with the fence and landscape plan designating the height and type of trees and/or shrubs. The applicant shall also submit a scale drawing of abutting lots, structures thereon and the location of windows, porches and openings on the ground level thereof which are screened from view of the proposed antenna location to the planning and zoning department for review and approval. Upon approval by the planning and zoning department, the clerk will cause a permit to be issued, after payment of a fifty-dollar (\$50.00) permit fee.
 - b. *Small dish antenna:* Anyone wishing to install or erect a private, non-commercial small dish antenna must do so in accordance with requirements of the South Florida Building Code, and pay a twenty-five-dollar (\$25.00) processing fee and a five-dollar (\$5.00) permit fee.
- (8) *Maintenance of antennas, surrounding landscaping, etc.:* Once installed, large dish antennas and related appurtenances must be maintained in good and operable condition. Surrounding landscaping shall also be maintained as designated on the fence and landscape plan.

(Ord. No. 310, § 2, 12-16-99)

Sec. 6-93. - Effect on existing antennas.

Nothing in this article shall prohibit the use or maintenance of dish antennas which are in existence at the time of the effective date of the ordinance from which this article was derived.

(Ord. No. 310, § 3, 12-16-99)

Sec. 6-94. - Appeals.

If a person adversely affected by this article wished to appeal any decision of the zoning and planning board, such appeal should be made to the village council by application to the city clerk within thirty (30) days of any adverse, at which time the matter will proceed de novo and the village council shall consider the same criteria as set forth in section 6-92.

(Ord. No. 310, § 4, 12-16-99)

Sec. 6-95. - Penalty.

Any person who violates any of the provisions of this article shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.

(Ord. No. 310, § 5, 12-16-99)

Sec. 6-96. - Costs.

If it is determined that a violation of this article was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.

(Ord. No. 310, § 6, 12-16-99)

Sec. 6-97. - Lien.

Any fine imposed for violation of this article or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 310, § 7, 12-16-99)

Secs. 6-98—6-110. - Reserved.

ARTICLE V. - WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS^[3]

Footnotes:

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Editor's note— Ord. No. 305, § 1, adopted Jan. 21, 1999, did not specifically amend the Code; hence inclusion herein as a new Art. V was at the editor's discretion.

Sec. 6-111. - Intent.

The regulations, requirements, and standards contained herein are intended to establish procedures and guidelines for the siting of wireless telecommunication towers and antennas and to accomplish the following:

- (1) To protect and promote the public health, safety, and general welfare of the residents of the village.
- (2) To protect the residential areas and other appropriate land uses from the potential adverse impacts of towers and antennas.
- (3) To encourage the location of towers and antennas in nonresidential areas and to locate such facilities, to the extent possible, in areas where the adverse impact on the community is minimal.

- (4) To minimize the total number of towers and antennas throughout the community by strongly encouraging the co-location of antennas on new pre-existing tower sites as a primary option rather than the construction of additional single-use towers.
- (5) To encourage users of towers and antennas to configure them in a manner that minimizes their adverse visual impact on the adjacent community by utilizing careful design, siting, landscape screening and innovative camouflaging techniques.
- (6) To enhance the ability of the providers of telecommunication services to provide such services to the community through an efficient and timely process.

In furtherance of the foregoing, the village shall, however, provide appropriate consideration to its master plan, zoning code and map, existing land uses, and all environmentally sensitive areas in approving sites for proposed wireless telecommunication towers and antennas.

(Ord. No. 305, § 1(A), 1-21-99)

Sec. 6-112. - Definitions.

As used in this article, the following terms shall have the meanings set forth below, which shall control over any other definitions contained in this Code.

Antenna means a transmitting and/or receiving device mounted on a tower, building or structure and used in telecommunications (personal wireless) services that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, directional antennas such as panel and microwave dish antennas, and omnidirectional antennas such as whips, but excluding radar antennas, amateur radio antennas and satellite earth stations.

Guyed tower means a telecommunications tower that is supported in whole or in part, by guy wires and ground anchors.

Lattice tower means a communication tower that is constructed to be self-supporting by lattice type supports and without the use of guy wires or other supports.

Microwave dish antenna means a dish-like antenna used to link communication (personal wireless service) sites together by wireless transmission of voice or data.

Monopole tower means a communication tower consisting of a single pole or spire self-supported on a permanent foundation, constructed without guy wires, ground anchors, or other supports.

Pre-existing towers and pre-existing antennas means any tower or antenna for which a building permit has been properly issued prior to the effective date of the ordinance from which this article is derived (January 21, 1999).

Stealth facility means any telecommunications facility which is designed to blend into the surrounding environment. For example, architecturally screened roof mounted antennae, building-mounted antennae painted to match the existing structure, antennae integrated into architectural elements, and communication towers designed to look like light poles, power poles, or trees.

Telecommunications facility means a facility that is used to provide one (1) or more telecommunications services, including, without limitation, radio transmitting towers, other supporting structures, and associated facilities used to transmit telecommunications signals. An open video system is not a telecommunications facility to the extent that it provides only cable service.

Telecommunications services means the offering of telecommunication (or the transmission, between or among points, specified by the user of information of the user's choosing, without charge in the form or content of the information as sent and received), for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. Personal wireless communication services shall not be considered as essential services, public utilities or private utilities.

Telecommunications tower means any structure, and support thereto, designed and constructed primarily for the purpose of supporting one (1) or more antennas intended for transmitting or receiving personal wireless services, telephone, radio and similar communication purposes, including lattice, monopole and guyed towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, among others.

Whip antenna means a cylindrical antenna that transmits signals three hundred sixty (360) degrees.

(Ord. No. 305, § 1(B), 1-21-99)

Sec. 6-113. - Applicability.

All new towers or antennas in the village shall be subject to these regulations. However, this article shall not govern any tower, or the installation of any antenna, that is for the use of a broadcasting facility owned and operated by a federally-licensed amateur radio station operator or is used exclusively for "receive only" antennas.

(Ord. No. 305, § 1(C), 1-21-99)

Sec. 6-114. - General requirements and standards.

Every new telecommunications tower and antenna shall be subject to the following minimum standards:

- (1) *Lease required.* Any construction, installation, or placement of a telecommunications facility on any property owned, leased or otherwise controlled by the village shall require a lease agreement executed by the village and the owner of the facility. No lease granted in regard to this article shall convey any exclusive right, privilege, permit or franchise to occupy or use the public lands of the village for delivery of telecommunication services or any other purpose. In addition, no lease granted under this section shall convey any right, title or interest in the public lands other than a leasehold interest, but shall be deemed only to allow the use of the public lands for the limited purposes and term stated in the lease. No lease shall be construed as a conveyance of a title interest in the property.
- (2) *Review of existing sites/application for use.*
 - a. Each applicant shall review all existing towers, antennas, and approved sites in the village prior to filing an application for construction of any new tower or antenna. All requests for sites shall include specific information about the proposed location, height, and design of the proposed towers. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the village that there is no existing tower, structure or state of the art technology that does not require the use of new towers or new structures to accommodate the applicant's proposed antenna and that the new tower will be constructed in a manner that will permit, accommodate and encourage future co-location thereon by other telecommunication providers. Evidence submitted to demonstrate that no existing tower, structure or state of the art technology is suitable shall consist of any of the following:
 - i. An evaluation of the feasibility of sharing a tower, indicating that existing towers or structures located within the geographic search area, as determined by a radio frequency engineer, do not have the capacity to provide reasonable technical service consistent with the applicant's technical system, including but not limited to, applicable FCC requirements.
 - ii. Existing towers or structures are not of sufficient height to meet the applicant's requirements which are, in turn, in compliance with all applicable FCC rules and regulations.

- iii. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - iv. That applicant's proposed antenna would cause electromagnetic/radio frequency interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
 - v. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - vii. The applicant demonstrates that state of the art technology used in the wireless telecommunications business, and within the scope of applicant's FCC license, is unsuitable. Costs of state of the art technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- b. The village may share such information with other applicants or other organizations seeking to locate antennas within the jurisdiction of the village provided, however, that the village is not, by sharing such information, in any way representing or warranting that such information is accurate or that such sites are available or suitable.

(3) *Engineering report.*

- a. All applicants for new towers and towers which are to be modified or reconstructed to accommodate additional antennas shall submit a written report certified by a professional engineer licensed to practice in the state. The report shall include:
 - i. Site development plan, drawn to scale, including without limitation, a legal description of the parent tract and leased parcel, if applicable, on-site and adjacent land uses, master plan classification of the site, and a visual impact analysis and photo digitalization of the tower and all attachments, including associated buildings and equipment containers at the property line, as well as at a distance of one hundred fifty (150) feet and two hundred fifty (250) feet from all properties adjacent to the proposed site.
 - ii. If applicable, a narrative of why the proposed tower cannot comply with the requirements as stated in this section.
 - iii. Type of tower and specifics of design.
 - iv. Current wind-loading capacity and a projection of wind-loading capacity using difference types of antennas as contemplated by the applicant. No tower shall be permitted to exceed its wind-loading capacity.
 - v. A statement that the proposed tower, including reception and transmission functions, will not interfere with the visual and customary transmission or reception of radio, television or similar services as well as other wireless services enjoyed by adjacent residential and nonresidential properties.
 - vi. A statement of compliance with all applicable building codes, associated regulations and safety standards. For all towers attached to existing structures, the statement shall include certification that the structure can support the load superimposed from the tower. All towers shall have the capacity to permit multiple users and be designed and constructed in such a manner as to accommodate all anticipated advancements in technology that will allow the expanded multiple use thereof. At a minimum, monopole towers shall be able to accommodate four (4) users, and, at a minimum, self-support/lattice or guyed towers shall be able to accommodate five (5) users.

- vii. Any additional information deemed by the village to be necessary to assess compliance with this article.

(4) *Co-location—Generally.* Pursuant to the intent of this article, co-location of telecommunication antennas by more than one provider on existing telecommunication towers shall take precedence over the construction of new telecommunications towers. Accordingly, in addition to submitting the information previously required herein, each application shall include a written report certified by a professional engineer licensed to practice in the State of Florida, stating:

- a. The geographical service area requirements.
- b. Mechanical or electrical incompatibility.
- c. Any restrictions or limitations of the Federal Communications Commission that would preclude the shared use of the tower.
- d. Any additional information required by the village.

If the village does not accept the full evaluation as provided as accurate, or if the village disagrees with any part of the evaluation required by this section, the application review process shall be halted until a review and evaluation meeting with the village mayor or the mayor's designee can be jointly conducted by and between the village staff, its professional advisors and the applicant. This meeting shall be scheduled as soon as is reasonably possible once a review disagreement is determined to exist.

(5) *Same—Tenant rental fees.* Pursuant to the intent of this article, the village shall provide the following incentives to service providers:

- a. The review of all applications submitted by providers seeking to co-locate on a pre-existing tower or to rent space on a proposed new tower, shall be completed by the village on an expedited basis following the filing of a completed application as required by this article.
- b. In order to be consistent with the village's intent to encourage co-location in every possible appropriate circumstance, tower owners regulated by this article shall not charge providers seeking to co-locate on the tower in excess of the fair market value for the space, as determined at the time of the request for co-location. Any attempt by a tower owner to discourage co-location by changing rates in violation of this provision shall be subject to appropriate sanctions as provided in the lease documents between the village and the tower owner.

(6) *Aesthetics.* Towers and antennas shall meet the following requirements:

- a. Towers shall, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings to minimize the visual impact.
- c. All tower sites must provide all reasonable landscaping that the village may require in order to enhance compatibility with adjacent residential and nonresidential land uses. All landscaping shall be properly maintained to ensure good health and viability at the owner's expense. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound consisting of the telecommunications tower and antennas, network connection equipment and any structure or equipment cabinet from all adjacent properties. The minimum landscape buffer area shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the tower compound. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. If trees are removed for the tower construction, the tower owner must replace all removed trees elsewhere on the site, re-locate or plant like trees in other areas of the village to be designated by the village building department, or make an appropriate contribution to the village tree replacement trust fund. In some cases, such as

towers sited on large, wooded lots, natural growth around the property perimeter may be utilized to provide the required landscape buffer area.

- d. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
- (7) *Lighting.* No signals, artificial lights, or illumination shall be permitted on any antenna or tower unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
- (8) *Setbacks.* Towers must be set back a minimum distance of one hundred ten (110) percent of the height of the tower.
- (9) *Separation.* Each tower shall be separated from any other tower by a distance of no less than one (1) mile as measured by a straight line between the bases of the towers.
- (10) *Height.* The maximum height for any tower shall be one hundred fifty (150) feet.
- (11) *Local, state, or federal requirements.* The construction, operation and repair of telecommunication facilities are subject to the supervision of the village, and shall be performed in compliance with all laws, ordinances and practices affecting such system. The construction, operation and repair shall be performed in a manner consistent with applicable industry standards, including the Electronic Industries Association. All telecommunication towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, including emissions standards, and any other agency of the local, state or federal government with the authority to regulate towers and antennas prior to issuance of a building permit by the village. If such applicable standards and regulations require retroactive application, then the owners of the towers and antennas government by this article shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a difference compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (12) *Building codes; safety standards.*
 - a. To insure the structural integrity of towers, the owner shall construct and maintain the tower in compliance with the South Florida Building Code, and all other applicable codes and standards, as may be amended from time to time. A statement shall be submitted by a professional engineer certifying compliance with this subsection. Where a preexisting structure, including light and power poles, is requested as a stealth facility, the facility, and all modifications thereof, shall comply with all requirements as provided in this article. Following the issuance of a building permit, the village shall require an analysis of a soil sample from the base of the tower site.
 - b. If, upon inspection, the village concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have no more than thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- (13) *Warning signs.* Notwithstanding any contrary provisions contained in this Code, the following shall be utilized in connection with any tower or antenna site, as applicable.
 - a. If high voltage is necessary for the operation of the communication tower or any accessory structures, "HIGH VOLTAGE-DANGER" warning signs shall be permanently attached to the fence or wall surrounding the structure and spaced no more than forty (40) feet apart.

- b. "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall surrounding the ground level equipment or structures and spaced no more than forty (40) feet apart.
 - c. The height of the lettering of the warning signs shall be at least twelve (12) inches in height. The warning signs shall be installed at least five (5) feet above the finished grade.
 - d. The warning signs may be attached to free standing poles if the content of the signs may be obstructed by landscaping.
- (14) *Security fencing.* Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the village may waive such requirements.
 - (15) *Measurement.* For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the village irrespective of municipal and county jurisdictional boundaries.
 - (16) *Not essential services.* Towers and antennas shall be regulated and permitted pursuant to this article and shall not be regulated or permitted as essential services, public utilities, or private utilities.
 - (17) *Franchises/licenses.* Owners and/or operators of towers or antennas shall certify that all franchises/licenses required by law for the construction and/or operation of a wireless communication system in the village have been obtained and shall file copies of all required franchises/licenses with the village.
 - (18) *Signs.* No signs, including commercial advertising, logo, political signs, flyers, flags, or banners, whether or not posted temporarily, shall be allowed on any part of an antenna or tower.
 - (19) *Buildings and support equipment.* Buildings and support equipment associated with antennas or towers shall comply with the requirements set forth in section 6-119.
 - (20) *Inspection; reports; fees.*
 - a. Telecommunication tower owners shall submit a report to the village certifying structural and electrical integrity every two (2) years. The report shall be accompanied by a nonrefundable fee of two hundred dollars (\$200.00) to reimburse the village for the cost of review.
 - b. The village may conduct periodic inspection of telecommunication towers, at the owner's expense, to insure structural and electrical integrity and compliance with the provisions of this article. The owner of the telecommunication tower may be required by the village to have more frequent inspections should there be an emergency, extraordinary conditions or other reason to believe that the structural and electrical integrity of the tower is jeopardized. There shall be a maximum of one (1) inspection per year unless emergency or extraordinary conditions warrant.
 - (21) *Reservation of authority.* The village reserves the right to impose any additional restrictions, conditions, and limitations that are reasonable and appropriate in regard to the approval of any tower or antenna application that are consistent with existing and applicable rules, regulations, statutes and opinions of qualified telecommunication experts.

(Ord. No. 305, § 1(D), 1-21-99)

Sec. 6-115. - Application for usage.

In addition to complying with all the conditions and requirements and supplying all the information and documentation required in section 6-114, each applicant for the construction on any wireless telecommunications tower or antenna shall file an application in a form provided by the village building

department, accompanied by a filing fee in the amount of two thousand five hundred dollars (\$2,500.00), to pay for the village's costs incurred in processing and reviewing the application, which shall include and require:

- (1) A full and complete review of the application and all other required information and documentation by all appropriate village departments under the coordination of the village building department.
- (2) An engineering review of the proposed plan, drawn to scale, of each proposed usage site which identifies proposed landscaping and includes elevation drawings of the antenna tower and any appurtenant facilities.
- (3) The applicant to provide evidence of the status of title for the proposed antenna tower site, in a form required by the village attorney's office, to assure the village that all necessary owners, easement holders, tenants, and other interested parties have consented to the application.
- (4) The applicant to certify that the tower or antenna proposed will be kept in continual compliance with all present and future promulgated safety laws, rules and regulations concerning electromagnetic frequency emissions standards, or similar safety standards for other communication media transmissions, and shall acknowledge the village's ability to require immediate removal of any antenna which does not meet such safety rules and regulations. This enforceable certification shall be in form approved by the village attorney's office and shall be binding on the applicant's successors in interest. The certification shall enable the village to recover its costs and attorney's fees if litigation is necessary to enforce the certification.
- (5) The applicant to further certify that any antenna(s) proposed for any tower or other location site will not interfere with public safety communications, and further, will not unreasonably interfere with the reception or transmission of television, radio, microwave, telephone, digital, or similar communication signals or receipt of signals of nearby residential or business residents. The village may, as a condition for approval, require frequency relocation agreements as a condition of approval of the application.
- (6) The applicant to state in its application that it will, as a condition of issuance of the permit, accommodate antenna facilities of other providers, on a nondiscriminatory basis, to avoid duplication of the erection of such antennas throughout the village, or if not, the reasons, based upon verifiable objective data, why it cannot do so. Unreasonable refusal to permit co-use shall constitute a violation of the Code and may result in the village revoking any previously granted antenna tower approval and seeking a mandatory injunction to compel the antenna tower's removal in addition to other remedies for code violations.

(Ord. No. 305, § 1(E), 1-21-99)

Sec. 6-116. - Application review procedure.

Following the administrative review of a pending application and all other information and documentation required by this article by all village departments, which is intended to be conducted within a reasonable period of time, the village building department shall request that the application be placed on the next regular agenda of the village zoning and planning board for review and approval. After being reviewed by the zoning and planning board, regardless of the board's decision on the pending application, the village council shall then review the application and its supporting information and documentation, and the decision of the zoning and planning board, at a public hearing to be noticed and advertised in the same manner as required for all public hearings of the village. The decision of the village council at the scheduled public hearing shall constitute final village action on the pending application.

(Ord. No. 305, § 1(F), 1-21-99)

Sec. 6-117. - Siting preferences.

- (a) The village shall encourage the location of antenna tower sites on public property consistent with the intent of the congressional legislation on this subject. Accordingly, when evaluating an antenna tower application, the village shall consider whether there is suitable public property near the proposed site which would physically accommodate the antenna tower without unreasonably compromising the antenna tower's signal reception or transmitting capability or unreasonably compromising the communication system's capability and without significantly increasing any negative antenna tower secondary effects such as aesthetics or the likelihood of property damage in the event of antenna tower failure.
- (b) If an antenna tower cannot be located on public property without unreasonably compromising the antenna tower's signal reception or transmission capability, or unreasonably compromising the communication system's capability, the village will next consider sites in industrial zoned districts, sites in business or office zoned districts, or sites in community facility zoned districts which are not subject to government ownership or use.
- (c) If an antenna tower cannot be located on any of the secondary preference sites stated in subsection (b) above, without unreasonably compromising the antenna tower's signal reception or transmission capability or unreasonably compromising the communication system's capability, the village will consider sites in the multi-family zoned districts of the village for the antenna tower site.
- (d) If an antenna tower cannot be located on any of the secondary preference sites stated in subsections (b) or (c) above, without unreasonably compromising the antenna tower's signal reception or transmission capability or unreasonably compromising the communication system's capability, the village will consider sites in the single family zoned districts of the village for the antenna tower site.
- (e) The village shall also consider the following factors in regard to all siting preference evaluations:
 - (1) Availability of suitable existing towers, other structures, or state of the art technologies not requiring the use of towers or structures.
 - (2) Height of the proposed tower.
 - (3) The setback and separation distances between the proposed tower and the nearest residential units or residentially zoned properties.
 - (4) Proximity of the tower to residential structures and residential district boundaries.
 - (5) Nature of uses on adjacent and nearby properties.
 - (6) Surrounding topography.
 - (7) Surrounding tree coverage and foliage.
 - (8) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - (9) Proposed ingress and egress.
- (f) In addition, the village may require opinions from suitable engineers or other professionals or experts when evaluating siting preferences and may defer considering applications for up to sixty (60) days to permit good faith negotiations to occur between an applicant and a property owner of a preferred site class. Moreover, it will be presumed that if a proposed site is within one (1) mile of an existing antenna tower that can reasonably accommodate the applicant's antenna, a denial of the application would not result in an unreasonable compromise to the applicant's communication system capability or an unreasonable compromise to the antenna tower's reception or transmission capability.

(Ord. No. 305, § 1(G), 1-21-99)

Sec. 6-118. - Public property special conditions.

The village reserves the right to modify or waive any of the requirements provided in this article for the siting of wireless telecommunication towers and antennas on publicly owned property. However, any determination to modify or waive any requirements contained in this article must be approved by the village council at the public hearing conducted to consider the application for the approval of the requested telecommunications facilities.

(Ord. No. 305, § 1(H), 1-21-99)

Sec. 6-119. - Buildings and support equipment standards.

- (a) *Antennas mounted on structures or rooftops.* The equipment cabinet or structure used in association with these types of antennas shall comply with all of the following:
 - (1) The cabinet or structure shall not contain more than four hundred fifty (450) square feet of gross floor area or be more than one hundred twenty (120) inches in height. In addition, for buildings and structures which are two (2) stories in height or less, the related unmanned equipment structure, if over one hundred (100) square feet of gross floor area or three (3) feet in height, shall be located on the ground and shall not be located on the roof of the structure unless the building or structure is completely screened.
 - (2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than five (5) percent of the roof area.
 - (3) Equipment buildings or cabinets shall comply with all applicable building codes, including minimum setback requirements provided herein.
 - (4) Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the telecommunication tower, unless repairs to the tower are being made.
 - (5) All buildings and equipment cabinets shall be unoccupied at all times.
- (b) *Antennas not located on telecommunication towers; mounted on utility poles or light poles.* The equipment cabinet or structure used in association with these types of antennas shall be located in accordance with the following:
 - (1) In residential districts, the equipment cabinet or structure may be located in a side yard setback provided the cabinet or structure is no greater than three (3) feet in height or sixteen (16) square feet of gross floor area and the cabinet/structure is located a minimum of five (5) feet from all lot lines. The cabinet/structure shall be screened by a hedge with a planted height of at least forty-eight (48) inches. Alternatively, in a rear yard setback, provided the cabinet or structure is no greater than five (5) feet in height or sixteen (16) square feet in gross floor area, the cabinet/structure shall be screened by a hedge with a planted height of seventy-two (72) inches.
 - (2) In commercial or industrial districts the equipment cabinet or structure shall be no greater than five (5) feet in height or twenty-five (25) square feet in gross floor area. The structure or cabinet shall be screened by a hedge with a planted height of seventy-two (72) inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid masonry fence six (6) feet in height or a hedge with a planted height of seventy-two (72) inches.
- (c) *Antennas located on towers.* The related unmanned equipment structure shall not contain more than one thousand five hundred (1,500) square feet of gross floor area or be more than eight (8) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

(Ord. No. 305, § 1(I), 1-21-99)

Sec. 6-120. - Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the village notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the ninety (90) day period shall constitute grounds for the village to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ord. No. 305, § 1(J), 1-21-99)

Sec. 6-121. - Nonconforming uses.

- (a) *No expansion of a nonconforming use.* Towers that are constructed, and antennas that are installed, in accordance with the provisions of this article, shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (b) *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on preexisting towers shall comply with the requirements of this article.

(Ord. No. 305, § 1(K), 1-21-99)

Sec. 6-122. - Protection of the village and residents.

- (a) *Indemnification.* The village shall not enter into any lease agreement until and unless the village obtains an adequate indemnity therein. The indemnity must at least provide for the:
 - (1) Release of the village from and against any and all liability and responsibility in or arising out of the construction, operation or repair of any communications facility. Each communications facility operator must further agree not to sue or seek any money or damages from the village in connection with the above mentioned matters.
 - (2) Indemnification and the holding harmless of the village, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorney's fees, liabilities, damages, orders, judgments, or decrees sustained by the village or any third party arising out of, or by reason of, or resulting from or of each communications facility operator, or its agents, employees, or servants negligent acts, errors or omissions.
 - (3) Covenants and representations relating to all indemnifications provided herein shall survive the term of any agreement and continue in full force and effect as to the party's responsibility to indemnify.
- (b) *Insurance.* The village may not enter into any lease agreement until and unless the village obtains appropriate assurance that such telecommunications facility operator (and those acting on its behalf) have adequate insurance. At a minimum, the following requirements must be satisfied:
 - (1) A telecommunications facility operator shall not commence construction or operation of any facility without obtaining all the insurance coverages that may be required, and the approval of such insurance by the risk management department of the village. Nor shall a communications facility operator allow any contractor or subcontractor to commence work on its contract or subcontract until all required insurance has been obtained and approved by the village. The required insurance must be obtained and maintained for the entire period the communications facility is in existence. If the operator, its contractors or subcontractors do not have the required

insurance, the village may order such entities to cease operations until the required insurance is obtained and approved.

- (2) Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the village's risk management department. All the certificates shall be filed prior to the commencement of construction and once a year thereafter, and as provided below, in the event of a lapse in coverage.
 - (3) These certificates shall contain a provision that the coverages afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been received by the village. Policies shall be issued by companies authorized to do business under the laws of the state.
 - (4) In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the period of the lease agreement with the village, then in that event, the communications facility operator shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a new or renewed certificate of insurance as proof that equal and like coverage for the balance of the period has been secured.
- (c) *Comprehensive general liability.* All communications facility operators and their contractors or subcontractors engaged in work on the operator's behalf, shall maintain appropriate insurance to cover liability for bodily injury and property damage, as shall be determined and required by the village. Coverages shall be provided for the premises, operations and all contractual obligations. Coverage shall be written on an occurrence basis and shall be included in all lease agreements between the village and all telecommunications facility operators.

(Ord. No. 305, § 1(L), 1-21-99)

Sec. 6-123. - Security fund.

Every telecommunication service provider, whether on public or private property, shall establish a cash security fund, or provide the village with an irrevocable letter of credit in the same amount, to secure the payment of removing any antenna or tower that has been determined to be abandoned. The amount to be provided for each tower shall be twenty five thousand dollars (\$25,000.00); the amount for each antenna array shall be five thousand dollars (\$5,000.00). In the alternative, in the village's sole discretion, an operator may, in lieu of a cash security fund or letter of credit, file and maintain with the village a bond with an acceptable surety in the amount of twenty-five thousand dollars (\$25,000.00). The operator and the surety shall be jointly and severally liable under the terms of the bond. Notwithstanding the foregoing, the security required by this section may be waived if sufficient security is otherwise provided in the lease between the provider and the village.

(Ord. No. 305, § 1(M), 1-21-99)

Secs. 6-124—6-140. - Reserved.

ARTICLE VI. - STORM SHUTTERS AND OTHER PROTECTIVE COVERINGS

Sec. 6-141. - Definitions.

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

Adverse weather conditions means any hurricane, tropical storm, windstorm or other violent weather event.

Means of ingress and egress means any door which opens directly to the exterior of the home or business which is operational, unobstructed, and readily accessible for any human to enter or exit the home or business.

Storm shutters means any protective materials which cover doors, windows, and/or other means of ingress or egress (doors or escape routes) from homes or businesses intended for use during adverse weather events.

(Ord. No. 358, § 1, 5-18-17)

Sec. 6-142. - Prohibition.

- (a) *Means of ingress and egress*: It is prohibited to install any storm shutter in such a manner as to obstruct, block, or interfere with, or prevent, the opening and ready access to the means of ingress and egress from the interior of the home or business to an open air area.
- (b) *Keeping storm shutter installed*: It is prohibited to keep and/or maintain any storm shutters in a closed, affixed, and/or secured position on a structure so as to cover any portion of any door, window, and/or means of ingress or egress for periods in excess of ten (10) consecutive days unless:
 - (1) A hurricane occurs during the ten- day period, at which point the ten-day period begins anew the day after hurricane conditions have subsided; or
 - (2) Hurricane conditions are expected to occur within forty-eight (48) hours after the tenth day; or
 - (3) The structure is used for residential purposes, but the structure is vacant and there is no human occupancy for a period in excess of ten (10) consecutive days, except that (a) and (b) above shall still apply during periods when the structure is not vacant or any human is in occupancy or residing in the residence.
- (c) *Exception*: Nothing in this article shall prevent placing, installing, or keeping a storm shutter on an individual window, provided there is an existing means of ingress and egress from the particular room or area where the shuttered window is located.

(Ord. No. 358, § 2, 5-18-17)

Sec. 6-143. - Violations and penalties.

- (a) *Penalty*. Any person who violates any of the provisions of this article shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.
- (b) *Cost*. If it is determined that a violation of this article was committed, all costs associated with the investigation and enforcement proceedings shall be assessed against the violator.
- (c) *Lien*. Any fine imposed for violation of this article or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with Section 162.09(3), Florida Statutes.

(Ord. No. 358, §§ 3—5, 5-18-17)

Chapter 7 - ELECTIONS^[1]

Footnotes:

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Charter reference— Elections, § 4(8); filing fees, § 4.1.

Cross reference— Administration, Ch. 2; village council, § 2-26 et seq.; regulations regarding political signs and special event signs, § 16-242.

State Law reference— Election code, F.S. ch. 97 et seq.; poll hours, F.S. § 98.031(1).

Sec. 7-1. - Elections to be held in accordance with Charter.

All elections to be held within the village shall be in accordance with section 4, paragraph 8 of the Charter.

(Code 1967, § 7-1)

Sec. 7-2. - Election board.

- (a) An election board shall be appointed for each election. In the event of a vacancy on the election board, the village council shall fill such vacancy until the next general election by resolution.
- (b) The village clerk or duly authorized and designated deputy shall act as the clerk to the election board.

(Code 1967, §§ 7-8, 7-9)

Cross reference— Boards, committees, commissions, § 2-41 et seq.

Sec. 7-3. - Publication of notice of election.

The village clerk shall publish a notice of each election to be held within the village in a newspaper of general circulation once a week for two (2) weeks immediately prior to the date of any election and shall post in four (4) conspicuous public places within the village a notice of such election at least two (2) weeks prior to the date of such election.

(Code 1967, § 7-2)

Sec. 7-4. - Designation of polling places.

The polling place of any election to be held within the village shall be designated by the village council by resolution.

(Code 1967, § 7-3)

Sec. 7-5. - Requirements for qualification of candidates.

Every candidate shall qualify for the office of his or her choice on or before the thirtieth day prior to the election day, not including the election day. In no event, however, shall candidates qualify prior to the sixtieth day prior to the election day, not including the election day.

(Code 1967, § 7-6; Ord. No. 271, § 2, 4-18-91)

Sec. 7-6. - Absentee ballots.

The village clerk shall make available absentee ballots in accordance with F.S. ch. 101.

(Code 1967, § 7-7)

Sec. 7-7. - Presence of police, deputy sheriff, etc., at polling places.

There shall be present at the polling place a police officer of the village or a deputy sheriff or county road patrolman to move inside the place of voting at the direction of the election clerk and outside the place of voting so that he might maintain peace and order during the hours of election.

(Code 1967, § 7-10)

Cross reference— Public safety department, § 2-126 et seq.

Sec. 7-8. - Use of voting machines.

- (a) Voting machines, if available, shall be used for all general and special elections to be held within the village. The clerk and mayor, together with such assistance as they may need from the election board, shall obtain such voting machines from the county.
- (b) The laws of the state in relation to voting machines, specifically F.S. §§ 101.27 through 101.571 are hereby adopted by reference and shall be the controlling law in all elections where voting machines are used. For the purposes of this section, the term "supervisor" as used in such F.S. §§ 101.27 through 101.571 shall mean the village clerk or duly authorized or appointed deputy, and the words "board of county commissioners" as used in such sections, where the context does not otherwise require, shall mean the village council.

(Code 1967, § 7-11)

Sec. 7-9. - Campaigning, etc., near polling place prohibited.

There shall be no posters, pictures, banners, cards or any other form of campaign solicitation for candidates within three hundred (300) feet of the voting place.

(Code 1967, § 7-13)

Sec. 7-10. - Filling of vacancy in candidacy caused by death, withdrawal or removal from ballot of a qualified candidate following the end of the qualifying period.

- (a) In the event a vacancy in candidacy exists caused by death, withdrawal or removal from the ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two (2) candidates for an office, then upon happening of such event, the village clerk shall post a notice in a daily newspaper of general circulation indicating that the qualification period for such office is extended for a period of five (5) days from the date of such publication so that the names of interested persons who qualify can be placed on the ballot for such office.
- (b) The qualification period shall be extended for five (5) days from the date of publication of such notice, as set forth in subsection (a), and candidates qualifying during such period shall be entitled to be considered for such candidacy.
- (c) In the event that the aforesaid vacancy as set forth in subsection (a) occurs twenty-one (21) days prior to such election, then in that event the remaining candidate on a ballot shall run unopposed.

(Ord. No. 270, §§ 1—3, 2-21-91)

Sec. 7-11. - No early voting.

Pursuant to F.S. § 100.3605(1), it is hereby provided that commencing with the September 2005 municipal elections for village mayor and village council, all mayor and council elections are hereby fully exempted from the provisions of F.S. § 101.657, concerning early voting. Accordingly, early voting shall not be provided.

(Ord. No. 330, § 2, 9-15-05)

Chapter 8 - FINANCE AND TAXATION^[1]

Footnotes:

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Charter reference— Village finances generally, § 5.

Cross reference— Administration, Ch. 2; licenses and business regulations, Ch. 10; local occupational license tax, § 10-25 et seq.; fees for garbage and waste collection and billing procedure, § 13-61 et seq.; utilities, Ch. 15.

State Law reference— Municipal finance and taxation, F.S. § 166.101 et seq., F.S. ch. 218; fiscal year, F.S. § 218.33.

ARTICLE I. - IN GENERAL

Sec. 8-1. - Prior approval of mayor required for certain expenditures.

No expenditures shall be made or contracted to be made by any department within the village, regardless of the budget, in excess of twenty-five dollars (\$25.00), without the prior approval of the mayor.

(Code 1967, § 8-2)

Cross reference— Administration, Ch. 2; departments, § 2-110 et seq.

Sec. 8-2. - Service charge on returned checks paid to village.

Any person who issues a check payable to the village shall pay in addition to all other moneys due the sum of ten dollars (\$10.00) for each check dishonored or returned without being paid for any reason whatsoever. The service charge of ten dollars (\$10.00) represents reasonable administrative costs for handling such return of dishonored checks. The ten dollars (\$10.00) shall be paid forthwith to the village, in addition to any other indebtedness as represented by the check.

(Code 1967, § 8-2.1)

State Law reference— Similar provisions, F.S. § 166.251.

Secs. 8-3—8-25. - Reserved.

ARTICLE II. - PUBLIC SERVICE TAX^[2]

Footnotes:

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Cross reference— Utilities, Ch. 15; water, § 15-26 et seq.; sanitary sewer system, § 15-111 et seq.

State Law reference— Public service tax, F.S. §§ 166.231, 166.232.

Sec. 8-26. - Definitions.

The following words, terms and 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:

Fuel oil shall include petroleum products delivered in bulk for heating purposes, except gasoline.

Bulk sale shall mean a sale in which a quantity of more than ten (10) gallons is sold to one (1) purchaser at one (1) time. Any sales of ten (10) gallons or less shall not be considered bulk sales and shall not be subject to the tax hereby imposed.

(Code 1967, § 8-12)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 8-27. - Tax levied; amount of tax.

There is hereby levied by the village within the corporate limits of the village, on each and every sale or use, within the village, of electricity, metered or bottled gas (natural, liquified petroleum gas or manufactured), bottled water or water service, fuel oil and local telephone service, a tax in the amount of ten (10) percent of the charge made by the seller to the consumer. The tax in every case shall be paid by the purchaser, for the use of the village to the seller of such electricity, gas, fuel oil, water or local telephone service at the time of paying the charge therefor.

(Code 1967, § 8-6)

State Law reference— Levy of tax on fuel oil limited to a maximum amount, F.S. § 166.231.

Sec. 8-28. - Collection by seller; payment; liability for tax upon uncollected charges; failure to pay.

It shall be the duty of every seller of electricity, metered or bottled gas (natural or manufactured), water service, fuel oil or local telephone service to collect from the purchaser for the use of the village the tax hereby levied, at the time of collecting the selling price charged for each transaction and to report and pay over on or before the twentieth day of each calendar month to the clerk of the village, all such taxes levied and collected during the preceding calendar month. It shall be unlawful for any seller to collect the price of any sale of electricity, metered or bottled gas (natural or manufactured), fuel oil, water service or local telephone service without at the same time collecting the tax hereby levied in respect to such sale or sales unless such seller shall elect to assume and pay such tax without collecting the same from the purchaser. Any seller failing to collect such tax at the time of collecting the price of any sale where the seller has not elected to assume and pay such tax shall be liable to the village for the amount of such tax in like manner as if the same had been actually paid to the seller. The village council shall cause to be brought all suits and actions and to take all proceedings in the name of the village as may be necessary

for the recovery of such tax. The seller shall not be liable for the payment of such tax upon uncollected charges. If any purchaser shall fail, neglect or refuse to pay to the seller the seller's charge and the tax hereby imposed and as hereby required on account of the sale for which such charge is made or either, the seller shall have and is hereby vested with the right, power and authority to immediately discontinue further service to such purchaser until the tax and the seller's bill shall have been paid in full.

(Code 1967, § 8-7)

Sec. 8-29. - Records.

Each and every seller of electricity, metered or bottled gas (natural or manufactured), fuel oil, water service or local telephone service shall keep complete records showing all sales in the village of such commodities or service, which records shall show the price charged upon each sale, the date thereof and the date of payment thereof and such records shall be kept open for inspection by the duly authorized agents of the village during business hours on all business days. Such duly authorized agents of the village shall have the right, power and authority to make such transcripts thereof during such times as they may desire.

(Code 1967, § 8-8)

Sec. 8-30. - Exemptions.

The United States of America, the state and the political subdivisions and agencies, boards, commissions and authorities thereof and churches are hereby exempted from payment of the tax levied by this article.

(Code 1967, § 8-9)

Sec. 8-31. - Exception for local telephone calls.

The tax hereby levied on sales of telephone service shall apply to all charges made for local telephone service except local messages which are paid for by inserting coins in coin-operated telephones. The total amount of the guaranteed charge on each bill rendered for semipublic coin box telephone service shall be subject to such tax.

(Code 1967, § 8-10)

Sec. 8-32. - Computation where price is on monthly basis.

In all cases, where the seller of electricity, metered or bottled gas (natural or manufactured), fuel oil, bottled water or water service or local telephone service, collects the price therefor at monthly periods the tax hereby levied may be computed on the aggregate amount of sales during such period. The amount of tax to be collected shall be the nearest whole cent to the amount computed.

(Code 1967, § 8-11)

Secs. 8-33—8-40. - Reserved.

ARTICLE III. - HOMESTEAD TAX EXEMPTION^[3]

Footnotes:

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Editor's note— Ord. No. 355, § 1, adopted Feb. 21, 2013, did not specifically amend the Code; hence, inclusion herein as Art. III, § 8-41, was at the editor's discretion.

Sec. 8-41. - Homestead exemptions for qualifying seniors.

Qualifying seniors can apply and be granted either or both of the following additional homestead tax exemptions:

- (1) An exemption not exceeding fifty thousand dollars (\$50,000.00) to any person sixty-five (65) years of age or older, who has legal or equitable title to real estate located within the Village of Virginia Gardens and maintains thereon his/her permanent residence, which residence qualifies for and receives homestead exemption pursuant to Section 6(d) of Article VII of the Florida Constitution, and whose annual income does not exceed twenty thousand dollars (\$20,000.00).
- (2) An exemption equal to the assessed value of the property to any person sixty-five (65) years of age or older who has the legal or equitable title to real estate with a just value less than two hundred fifty thousand dollars (\$250,000.00) and who has maintained thereon the permanent residence of the owner for not less than twenty-five (25) years and whose household income does not exceed the income limitation of twenty thousand dollars (\$20,000.00).

(Ord. No. 355, § 1, 2-21-2013)

Editor's note— Ord. No. 355, § 2, adopted Feb. 21, 2013, provides that these additional exemptions will apply to the 2013 tax roll and all subsequent tax rolls.

Chapter 8.5 - FLOODPLAIN MANAGEMENT REGULATIONS^[1]

Footnotes:

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Editor's note— Ord. No. 357-A, § 2, adopted June 16, 2016, repealed former Ch. 8.5, Arts. I—IV, in its entirety and enacted new provisions as herein set out. Former Ch. 8.5 pertained to similar subject matter and derived from Ord. No. 346, adopted Sept. 17, 2009.

ARTICLE I. - ADMINISTRATION

DIVISION 1. - GENERALLY

Sec. 8.5-1. - Title.

These regulations shall be known as the Floodplain Management Ordinance of the Village of Virginia Gardens, hereinafter referred to as "this chapter."

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-2. - Scope.

The provisions of this chapter 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-3. - Intent.

The purposes of this chapter 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
- (9) 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-4. - Coordination with the Florida Building Code.

This chapter 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-5. - Warning.

The degree of flood protection required by this chapter 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 chapter 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 guaranty of vested use, existing use, or future use is implied or expressed by compliance with this chapter.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-6. - Disclaimer of liability.

This chapter shall not create liability on the part of village council of the Village of Virginia Gardens or by any officer or employee thereof for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 2. - APPLICABILITY

Sec. 8.5-7. - General.

Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-8. - Areas to which this chapter applies.

This chapter shall apply to all flood hazard areas within the Village of Virginia Gardens, as established in Section 8.5-9.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-9. - Basis for establishing flood hazard areas.

The Flood Insurance Study for Miami-Dade County, Florida and Incorporated Areas, dated September 11, 2009, and all subsequent amendments and revisions, and the accompanying flood insurance rate maps (FIRM), and all subsequent amendments and revisions to such maps, are adopted by reference as a part of this ordinance 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 Village Hall, 6498 NW 38th Terrace, Virginia Gardens, Florida 33166.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-10. - Submission of additional data to establish flood hazard areas.

To establish flood hazard areas and base flood elevations, pursuant to Article I, Section 5 of this chapter 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 community 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 flood hazard area and subject to

the requirements of this chapter 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-11. - Other laws.

The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-12. - Abrogation and greater restrictions.

This chapter supersedes any ordinance in effect for management of development in flood hazard areas. However, it is not intended to repeal or abrogate any existing ordinances including but not limited to land development regulations, zoning ordinances, storm water management regulations, or the Florida Building Code. In the event of a conflict between this chapter and any other ordinance, the more restrictive shall govern. This chapter shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this chapter.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-13. - Interpretation.

In the interpretation and application of this chapter, 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.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 3. - DUTIES AND POWERS OF THE FLOODPLAIN ADMINISTRATOR

Sec. 8.5-14. - Designation.

The building official is designated as the floodplain administrator. The floodplain administrator may delegate performance of certain duties to other employees.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-15. - General.

The floodplain administrator is authorized and directed to administer and enforce the provisions of this chapter. The floodplain administrator shall have the authority to render interpretations of this chapter consistent with the intent and purpose of this chapter 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 chapter without the granting of a variance pursuant to Article I, Division 7 of this chapter.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-16. - 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 new development will be located in flood hazard areas;
- (2) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this chapter;
- (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 or 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 chapter 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 chapter.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-17. - Substantial improvement 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 any 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 improvement or repair of substantial damage; for proposed work to repair damage cause by flooding, the

determination requires evaluation of previous permits issued to repair flood-related damage as specified in the definition of "substantial damage"; and

- (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 chapter is required.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-18. - 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 Article I, Division 7 of this chapter.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-19. - 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 chapter.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-20. - Inspections.

The floodplain administrator shall make the required inspections as specified in Article I, Division 6 of this chapter 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-21. - Other duties of the floodplain administrator.

The floodplain administrator shall have other duties, including but not limited to:

- (1) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to section 8.5-17 of this chapter;
- (2) 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);
- (3) 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 (6) months of such data becoming available;
- (4) Review required design certifications and documentation of elevations specified by this chapter and the Florida Building Code to determine that such certifications and documentations are complete; and

- (5) Notify the Federal Emergency Management Agency when the corporate boundaries of the Village of Virginia Gardens are modified.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-22. - 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 chapter 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 chapter; 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 chapter and the flood resistant construction requirements of the Florida Building Code. These records shall be available for public inspection at Village Hall, 6498 NW 38th Terrace, Virginia Gardens, Florida 33166.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 4. - PERMITS

Sec. 8.5-23. - Permits required.

Any owner or owner's authorized agent (hereinafter "applicant") who intends to undertake any development activity within the scope of this chapter, 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 chapter and all other applicable codes and regulations has been satisfied.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-24. - Floodplain development permits or approvals.

Floodplain development permits or approvals shall be issued pursuant to this chapter 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-25. - 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 chapter:

- (1) Railroads and ancillary facilities associated with the railroad.
- (2) Nonresidential farm buildings on farms, as provided in section 604.50, F.S.
- (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 section 366.02, F.S., 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 two hundred fifty (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 section 553.73(10)(k), F.S., are not exempt from the Florida Building Code if such structures are located in flood hazard areas established on flood insurance rate maps.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-26. - 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 community. 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 Article I, Division 5 of this chapter.
- (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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-27. - Validity of permit or approval.

The issuance of a floodplain development permit or approval pursuant to this chapter shall not be construed to be a permit for, or approval of, any violation of this chapter, the Florida Building Codes, or any other ordinance of this community. The issuance of permits based on submitted applications, construction documents, and information shall not prevent the floodplain administrator from requiring the correction of errors and omissions.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-28. - Expiration.

A floodplain development permit or approval shall become invalid unless the work authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized is suspended or abandoned for a period of one hundred eighty (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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-29. - 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 chapter or any other ordinance, regulation or requirement of this community.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-30. - Other permits required.

Floodplain development permits and building permits shall include a condition that all other applicable state or federal permits be obtained before commencement of the permitted development, including but not limited to the following:

- (1) The South Florida Water Management District; section 373.036, F.S.
- (2) Florida Department of Health for onsite sewage treatment and disposal systems; section 381.0065, F.S. and Chapter 64E-6, F.A.C.
- (3) Florida Department of Environmental Protection for activities subject to the joint coastal permit; section 161.055, F.S.
- (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.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 5. - SITE PLANS AND CONSTRUCTION DOCUMENTS

Sec. 8.5-31. - Information for development in flood hazard areas.

The site plan or construction documents for any development subject to the requirements of this chapter shall be drawn to scale and shall include, as applicable to the proposed development:

- (1) Delineation of flood hazard areas, floodway boundaries and 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 8.5-32(2) or (3).
- (3) Where the parcel on which the proposed development will take place will have more than fifty (50) lots or is larger than five (5) acres and the base flood elevations are not included on the FIRM or in the flood insurance study, such elevations shall be established in accordance with section 8.5-32(1).

- (4) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
- (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.
- (8) The floodplain administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this chapter but that are not required to be prepared by a registered design professional if it is found that the nature of the proposed development is such that the review of such submissions is not necessary to ascertain compliance with this chapter.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-32. - 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 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:
 - a. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - b. Specify that the base flood elevation is two (2) feet above the highest adjacent grade at the location of the development, provided there is no evidence indicating flood depths have been or may be greater than two (2) feet.
- (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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-33. - 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, 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 analysis to FEMA as specified in section 8.5-34 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 or 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 more than one (1) foot 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 AO 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 8.5-34.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-34. - Submission of additional data.

When additional hydrologic, hydraulic or other engineering data, studies, and additional analyses are submitted to support an application, the applicant has the right to 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.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 6. - INSPECTIONS

Sec. 8.5-35. - General.

Development for which a floodplain development permit or approval is required shall be subject to inspection.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-36. - Development other than buildings and structures.

The floodplain administrator shall inspect all development to determine compliance with the requirements of this chapter and the conditions of issued floodplain development permits or approvals.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-37. - 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 chapter and the conditions of issued floodplain development permits or approvals.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-38. - 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:

- (1) If a design flood elevation was used to determine the required elevation of the lowest floor, the certification of elevation of the lowest floor prepared and sealed by a Florida licensed professional surveyor; or
- (2) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with section 8.5-32(3).b of this chapter, the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-39. - 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 8.5-38/

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-40. - Manufactured homes.

The floodplain administrator shall inspect manufactured homes that are installed or replaced in flood hazard areas to determine compliance with the requirements of this chapter 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 floodplain administrator.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 7. - VARIANCES AND APPEALS

Sec. 8.5-41. - General.

The village council shall hear and decide on requests for appeals and requests for variances from the strict application of this chapter. Pursuant to section 553.73(5), F.S., the village council 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-42. - Appeals.

The village council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the administration and

enforcement of this chapter. Any person aggrieved by the decision may appeal such decision to the circuit court, as provided by Florida Statutes.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-43. - Limitations on authority to grant variances.

The village council shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in section 8.5-47, the conditions of issuance set forth in section 8.5-48 of this chapter, and the comments and recommendations of the floodplain administrator and the building official. The village council has the right to attach such conditions as it deems necessary to further the purposes and objectives of this chapter.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-44. - 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 8.5-33.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-45. - 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 proposed 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-46. - 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 chapter, provided the variance meets the requirements of section 8.5-44, 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-47. - Considerations for issuance of variances.

In reviewing requests for variances, the village council shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this chapter, 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 to the community;
- (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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-48. - 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 chapter or the required elevation standards;
- (2) Determination by the village council 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. 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; and
 - c. The variance is the minimum necessary, considering the flood hazard, to afford relief;
- (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the office of the clerk of the court in such a manner that it appears in the chain of title of the affected parcel of land; and
- (4) 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 twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 8. - VIOLATIONS

Sec. 8.5-49. - Violations.

Any development that is not within the scope of the Florida Building Code but that is regulated by this chapter that is performed without an issued permit, that is in conflict with an issued permit, or that does not fully comply with this chapter, shall be deemed a violation of this chapter. 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 chapter or the Florida Building Code is presumed to be a violation until such time as that documentation is provided.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-50. - Authority.

For development that is not within the scope of the Florida Building Code but that is regulated by this chapter 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-51. - Unlawful continuance.

Any person who shall continue any work after having been served with a notice of violation or a stop work order, except such work as that person is directed to perform to remove or remedy a violation or unsafe condition, shall be subject to penalties as prescribed by law and the Village Code.

(Ord. No. 357-A, § 2, 6-16-16)

Secs. 8.5-52—8.5-60. - Reserved.

ARTICLE II. - DEFINITIONS

DIVISION 1. - GENERALLY

Sec. 8.5-61. - Scope.

Unless otherwise expressly stated, the following words and terms shall, for the purposes of this chapter, have the meanings shown in this article.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-62. - Terms defined in the Florida Building Code.

Where terms are not defined in this chapter and are defined in the Florida Building Code, such terms shall have the meanings ascribed to them in that code.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-63. - Terms not defined.

Where terms are not defined in this chapter or the Florida Building Code, such terms shall have ordinarily accepted meanings such as the context implies.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 2. - DEFINITIONS

Sec. 8.5-64. - Terms defined.

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.

Appeal. A request for a review of the floodplain administrator's interpretation of any provision of this chapter.

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.

Base flood. A flood having a one-percent chance of being equaled or exceeded in any given year. [Also defined in FBC, B, Section 202.] The base flood is commonly referred to as the "100-year flood" or the "1-percent-annual chance flood."

Base flood elevation. The elevation of the base flood, including wave height, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the Flood Insurance Rate Map (FIRM). [Also defined in FBC, B, Section 202.]

Basement. The portion of a building having its floor subgrade (below ground level) on all sides. [Also defined in FBC, B, Section 202; see "Basement (for flood loads)".]

Design flood. The flood associated with the greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (1) Area with a floodplain subject to a one-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 2 feet. [Also defined in FBC, B, Section 202.]

Development. Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, tanks, temporary structures, temporary or permanent storage of equipment or materials, mining, dredging, filling, grading, paving, excavations, drilling operations or any other land disturbing activities.

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.

Existing building and existing structure. Any buildings and structures for which the "start of construction" commenced before September 29, 1972. [Also defined in FBC, B, Section 202.]

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before September 29, 1972.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA). The federal agency that, in addition to carrying out other functions, administers the National Flood Insurance Program.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land from: [Also defined in FBC, B, Section 202.]

- (1) The overflow of inland or tidal waters.
- (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. [Also defined in FBC, B, Section 202.]

Flood hazard area. The greater of the following two areas: [Also defined in FBC, B, Section 202.]

- (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 (FIRM). The official map of the community on which the Federal Emergency Management Agency has delineated both special flood hazard areas and the risk premium zones applicable to the community. [Also defined in FBC, B, Section 202.]

Flood insurance study (FIS). The official report provided by the Federal Emergency Management Agency that contains the flood insurance rate map, the flood boundary and floodway map (if applicable), the water surface elevations of the base flood, and supporting technical data. [Also defined in FBC, B, Section 202.]

Floodplain administrator. The office or position designated and charged with the administration and enforcement of this chapter (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 chapter.

Floodway. The channel of a river or other riverine 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 (1) foot. [Also defined in FBC, B, Section 202.]

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.

Florida Building Code. 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.

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.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls or foundation of a structure.

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.

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:

- (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.

Light-duty truck. As defined in 40 C.F.R. 86.082-2, any motor vehicle rated at eight thousand five hundred (8,500) pounds gross vehicular weight rating or less which has a vehicular curb weight of six thousand (6,000) pounds or less and which has a basic vehicle frontal area of forty-five (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 designed primarily for transportation of persons and has a capacity of more than twelve (12) persons; or
- (2) Available with special features enabling off-street or off-highway operation and use.

Lowest floor. 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. [Also defined in FBC, B, Section 202.]

Manufactured home. A structure, transportable in one or more sections, which is eight (8) feet or more in width and greater than four hundred (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." [Also defined in 15C-1.0101, F.A.C.]

Manufactured home park or subdivision. A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

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 chapter, 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.

New construction. For the purposes of administration of this chapter and the flood resistant construction requirements of the Florida Building Code, structures for which the "start of construction" commenced on or after September 29, 1972 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after September 29, 1972.

Park trailer. A transportable unit which has a body width not exceeding fourteen (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 section 320.01, F.S.]

Recreational vehicle. A vehicle, including a park trailer, which is: [See section 320.01, F.S.)

- (1) Built on a single chassis;
- (2) Four hundred (400) 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.

Special flood hazard area. An area in the floodplain subject to a one (1) percent or greater chance of flooding in any given year. Special flood hazard areas are shown on FIRMs as Zone A, AO, AI—A30, AE, A99, AH, V1—V30, VE or V. [Also defined in FBC, B Section 202.]

Start of construction. The date of issuance of permits for new construction and substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within one hundred eighty (180) days of the date of the issuance. The actual start of construction means either the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns.

Permanent construction does not include land preparation (such as clearing, grading, or filling), the installation of streets or walkways, excavation for a basement, footings, piers, or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main buildings. 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. [Also defined in FBC, B Section 202.]

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 fifty (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 twenty-five (25) percent of the market value of the structure before the damage occurred. [Also defined in FBC, B Section 202.]

Substantial improvement. Any repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, the cost of which equals or exceeds fifty (50) percent of the market value of the building or structure before the improvement or repair is started. 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: [Also defined in FBC, B, Section 202.]

- (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. [See Instructions and Notes]

Variance. A grant of relief from the requirements of this chapter, or the flood resistant construction requirements of the Florida Building Code, which permits construction in a manner that would not otherwise be permitted by this chapter or the Florida Building Code.

Watercourse. A river, creek, stream, channel or other topographic feature in, on, through, or over which water flows at least periodically.

Secs. 8.5-65—8.5-70. - Reserved.

ARTICLE III. - FLOOD RESISTANT DEVELOPMENT

DIVISION 1. - BUILDINGS AND STRUCTURES

Sec. 8.5-71. - Design and construction of buildings, structures and facilities exempt from the Florida Building Code.

Pursuant to section 8.5-25, 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 Article III, Division 7 of this chapter.

Sec. 8.5-72. - Specific methods of construction and requirements.

Pursuant to the Chapter 8 Article III of the Miami Dade County Code, the following specific methods of construction and requirements apply:

- (1) *Additional elevation (freeboard) buildings.* For buildings in special flood hazard areas, the minimum elevation requirements in the Florida Building Code shall be to or above the base flood elevation plus one (1) foot.
- (2) *Limitations on enclosed areas below elevated buildings.* For buildings in special flood hazard areas, the following limitations apply to enclosed areas below elevated buildings:
 - a. Access shall be the minimum necessary to allow for only parking of vehicles (garage door), limited storage of maintenance equipment in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator).
 - b. The interior portion shall not be temperature controlled, partitioned, or finished into separate rooms.
- (3) *Flood damage and substantial damage.* In the Florida Building Code, Building, and Florida Building Code, Existing Building, definitions for the term "Substantial Damage" shall be as follows:

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 fifty (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 twenty-five (25) percent of structure before the damage occurred.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 2. - SUBDIVISIONS

Sec. 8.5-73. - 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-74. - 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 and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats;
- (2) Where the subdivision has more than fifty (50) lots or is larger than five (5) acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with section 8.5-32(1); and
- (3) Compliance with the site improvement and utilities requirements of Article III, Division 3 of this chapter.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 3. - SITE IMPROVEMENTS, UTILITIES AND LIMITATIONS

Sec. 8.5-75. - 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-76. - 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 flood waters, and impairment of the facilities and systems.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-77. - 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-78. - Limitations on sites in regulatory floodways.

No development, including but not limited to site improvements, and land disturbing activity involving fill or regrading, shall be authorized in the regulatory floodway unless the floodway encroachment analysis required in section 8.5-33(1) demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-79. - Limitations on placement of fill.

Subject to the limitations of this chapter, 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.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 4. - MANUFACTURED HOMES

Sec. 8.5-80. - General.

All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to section 320.8249, F.S., and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this chapter.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-81. - Foundations.

All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that are designed in accordance with the foundation requirements of the Florida Building Code, Residential Section R322.2 and this chapter. Foundations for manufactured homes subject to section 8.5-85 are permitted to be reinforced piers or other foundation elements of at least equivalent strength.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-82. - 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-83. - Elevation.

Manufactured homes that are placed, replaced, or substantially improved shall comply with section 8.5-84 or 8.5-85 of this chapter, as applicable.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-84. - General elevation requirement.

Unless subject to the requirements of section 8.5-85 of this chapter, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, 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).

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-85. - Elevation requirement for certain existing manufactured home parks and subdivisions.

Manufactured homes that are not subject to section 8.5-84, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:

- (1) Bottom of the frame of the manufactured home 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
- (2) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 48 inches in height above grade.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-86. - Enclosures.

Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322.2 for such enclosed areas.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-87. - 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.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 5. - RECREATIONAL VEHICLES AND PARK TRAILERS

Sec. 8.5-88. - Temporary placement.

Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:

- (1) Be on the site for fewer than one hundred eighty (180) consecutive days; 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-89. - Permanent placement.

Recreational vehicles and park trailers that do not meet the limitations in section 8.5-88 for temporary placement shall meet the requirements of Article III, Division 4 of this chapter for manufactured homes.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 6. - TANKS

Sec. 8.5-90. - 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-91. - Above-ground tanks, not elevated.

Above-ground tanks that do not meet the elevation requirements of Section 8.5-92 of this chapter shall 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-92. - 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-93. - 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.

(Ord. No. 357-A, § 2, 6-16-16)

DIVISION 7. - OTHER DEVELOPMENT

Sec. 8.5-94. - 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 chapter or the Florida Building Code, shall:

- (1) Be located and constructed to minimize flood damage;
- (2) Meet the limitations of Section 8.5-78 of this chapter if located in a regulated floodway;
- (3) Be anchored to prevent flotation, 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.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-95. - 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 8.5-78.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-96. - 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 8.5-78.

(Ord. No. 357-A, § 2, 6-16-16)

Sec. 8.5-97. - 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 8.5-78 of this chapter. Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of section 8.5-33(3).

(Ord. No. 357-A, § 2, 6-16-16)

Chapter 9 - HEALTH, SANITATION AND NUISANCES^[1]

Footnotes:

--- (1) ---

Cross reference— Administration, Ch. 2; enforcement by the code enforcement board, § 2-71 et seq.; alcoholic beverages, Ch. 4; restriction on locating beer or wine establishments near churches and schools, § 4-2; animals, Ch. 5; regulations regarding dish antenna, § 6-91 et seq.; licenses and business regulations, Ch. 10; motor vehicles and traffic, Ch. 12; solid waste, Ch. 13; streets, sidewalks and other public places, Ch. 14; utilities, Ch. 15; zoning, Ch. 16.

State Law reference— Public health, F.S. ch. 381 et seq.; nuisances, F.S. § 386.01 et seq.

ARTICLE I. - IN GENERAL

Secs. 9-1—9-25. - Reserved.

ARTICLE II. - NUISANCES^[2]

Footnotes:

--- (2) ---

Charter reference— Penalties imposed for expenses of city improvements to neglected property, § 14.1.

DIVISION 1. - GENERALLY

Sec. 9-26. - Responsibility of property owner.

It shall be the duty of the owner of any lot, parcel or tract of land in the village to keep such property in a safe, clean and presentable condition and to remove therefrom all weeds and other growth and all trash and rubbish and to fill in all excavations and depressions thereon and to eliminate any standing

water that may make possible the propagation of mosquitos therein. The existence of grass over eighteen (18) inches in height is declared a nuisance required to be abated as provided in this division.

(Code 1967, § 13-2)

Sec. 9-27. - Notice to property owner to remove prohibited conditions.

- (a) In the event the owner of a lot, tract or parcel of land within the village fails or refuses to keep such property in a safe, clean and presentable condition, as provided in section 9-26, it shall be the duty of the code inspector to give notice to the owner of such property to comply with the requirements of section 9-26 within five (5) days after the service of such notice.
- (b) The code inspector shall give such notice to the owner of such property at his last known mailing address as disclosed by the files in the county tax assessor's office or upon any occupant thereof or upon any agent or employee of the owner thereof. If the address of the owner is unknown and if the property is unoccupied and the owner thereof has no agent or employee available for service of such notice, the posting of a notice upon such property shall constitute and be sufficient notice to the owner thereof. All methods of giving notice as provided for in this section are cumulative and independent of the other and may be used as necessary. Proof of service of such notice shall be made by affidavit filed in the records of the village.

(Code 1967, §§ 6-4, 13-3)

Sec. 9-28. - Appeal of code inspector's decisions, action by village upon owner's failure to correct conditions or appeal.

- (a) The owner may notify the village clerk to set the matter for a hearing before the village council. The clerk shall set the matter for a hearing on the issue of whether or not such conditions as described in section 9-27 are detrimental to the health and welfare of the residents of the village. Such notice shall be made to the village clerk within five (5) days of the aforesaid notice to the owner.
- (b) If the owner fails to request such hearing or the owner fails to correct such condition, the village may correct such condition and file an assessment or lien against such property for the value of the work performed pursuant to section 9-29.

(Code 1967, § 6-5)

Sec. 9-29. - Performance of work by village upon failure of owner to comply with notice; collection of costs.

In the event the owner of a lot, parcel or tract of land fails to remove or abate all surplus grass, weeds, trash, rubbish and standing water, or refuses to fill in all excavations and depressions thereon after notice has been given as provided in section 9-27, the village may clean such lot, tract or parcel of land and place the same in a safe and presentable condition and the itemized list of expenses of the same and the costs thereof shall thereafter and therefrom become a lien and charge against such property payable November 1 of each year. Upon failure to pay the amount of such lien the village may have recourse to all remedies which may exist in its favor for the enforcement thereof by virtue of its Charter and the general laws of the state appertaining thereto. If such amount expended by the village is not paid at such time the same shall bear interest at the rate of six (6) percent per annum until paid.

(Code 1967, § 13-4)

Sec. 9-30. - Records to be kept, recording of liens.

The village clerk shall provide a complete set of books and shall place therein the amount of any lien due against a lot, tract or parcel of land for work done by the village thereon as provided in this article, together with interest thereon, and shall also file therein an affidavit of service of notice to the owner of such property and shall have included the total amount thereof in the tax statements of the village thereafter submitted to the owner of such lots, tracts or parcels of land.

(Code 1967, § 13-5)

Sec. 9-31. - Maintenance of lawns and green areas.

- (a) All lawns and green areas shall be maintained and kept properly trimmed, free and clear of all accumulation of waste, garbage, or other refuse of any kind.
- (b) Properly trimmed shall mean the following:
 - (1) As to lawns, a grass height of no more than eight (8) inches;
 - (2) As to shrubbery, a height no greater than six (6) feet along the rear and side of property lines, commencing parallel to the front of any structure on the property and running back toward real property line, a height no greater than four (4) feet along the front of the property line, commencing parallel to the front of the structure and running towards the front property line abutting the sidewalk, and a height no greater than the threshold of the window line around the structure.
- (c) If it is determined upon inspection or based upon a complaint that any property is in violation of any provision of this section, the village official shall issue a written warning to the individual responsible for maintaining the structure, notifying them that they have seven (7) days to correct the violation or the village shall issue a citation.
- (d) The warning issued pursuant to subsection (c) of this section shall require the individual responsible for maintaining the structure to correct the violation within seven (7) days from the date of the issuance of the warning. If the violation is not corrected within the prescribed time, the individual will be subject to the issuance of a citation for violation of this section.
- (e) Any person who violates any of the provisions of this section shall be subject to a fine which shall not exceed two hundred and fifty dollars (\$250.00) per day for the first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.
- (f) If it is determined that a violation of this section was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.
- (g) Any fine imposed for violation of this section or any assessment of costs related to enforcement proceedings, shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 320, 10-6-03)

Secs. 9-32—9-45. - Reserved.

DIVISION 2. - VEHICLES³

Footnotes:

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Cross reference— Motor vehicles and traffic, Ch. 12; streets, sidewalks and other public places, Ch. 14; zoning, Ch. 16; supplemental district regulations, § 16-216 et seq.

State Law reference— Abandoned vehicles, F.S. § 705.101 et seq.

Sec. 9-46. - Keeping of inoperable vehicles on certain premises prohibited.

It shall be unlawful for any person to keep or permit the keeping of a motor vehicle which is not in operable condition on property in the village which is zoned for residential, multifamily or commercial uses. For the purposes of this section, a motor vehicle shall be deemed not to be in operable condition if, among other things, it is not equipped with headlights or tires, if its engine cannot be started or if there is not affixed to it a current license tag issued by the state and such conditions have existed for a period of seven (7) days.

(Code 1967, § 13-1)

Sec. 9-47. - Storage of recreational vehicles and equipment.

(a) *Boats and airboat storage.*

- (1) The location of stored boats and airboats shall be in the rear yard or in the side yard to the rear of a line established by the front building line furthest from the street and set back to at least the rear building line wherever possible, but in no event in front of such front building line.
- (2) In the event that the boat or airboat is of a greater width than the side setback, such boat or airboat will be permitted to be parked in the driveway or a paved area parallel thereto. However, no boat with an overall length of over twenty-five (25) feet including the trailer and out drive and eight (8) feet in width will be allowed to be parked in front of any home, duplex or apartment house within the village.
- (3) No more than one (1) boat may be stored on any one (1) premises.
- (4) Boats and places of storage shall be kept in a clean, neat and presentable condition.
- (5) No major repairs or overhaul work shall be made or performed on the premises.
- (6) The boats shall not be used for living or sleeping quarters and shall be placed on and secured to a transporting trailer carrying a current license.

(b) *Recreational and camping equipment.* Recreational and camping equipment in the form of travel and camping trailers, truck trailers and motor travel homes, designed and used as temporary living quarters for recreation, camping or travel use may be parked in the open on sites containing a single-family or duplex residence, subject to the following conditions:

- (1) No more than one (1) such piece of equipment shall be parked on such site.
- (2) Such parking shall be limited to such equipment owned or leased by the occupant-owner or occupant-lessee of the site concerned or owned or leased by a bona fide out-of-county house guest of the occupant-owner or occupant-lessee of the site concerned with the parking of such equipment by such guest not to exceed fourteen (14) days.
- (3) The location for such parked equipment shall be in the rear yard or in the side yard to the rear of a line established by the front building line furthest from the street and set back to at least the rear building line wherever possible, but in no event in front of such front building line. Such equipment shall be set back from side property lines at least a distance equivalent to the required side setback for the principal building and shall be set back from the rear property line at least ten (10) feet.
- (4) Such equipment and the area of parking shall be maintained in a clean, neat and presentable manner and the equipment shall be in usable condition at all times.

- (5) Such equipment shall, at all times, have attached a current vehicle registration license plate and, if required, a current inspection sticker.
- (6) No major repairs or overhaul work on such equipment shall be made or performed on the site, or any other work performed thereon which would constitute a nuisance under existing ordinances.
- (7) When parked on the site, such equipment shall not be used for living or sleeping quarters or for housekeeping or storage purposes and shall not have attached thereto any service connection lines, except as may periodically be required to maintain the equipment and appliances.
- (8) Such equipment shall not exceed the maximum length, width, height and weight permitted under applicable provisions of the motor vehicle laws of the state; provided, that the maximum length shall not exceed thirty (30) feet and the maximum height shall not exceed ten (10) feet.
- (9) Such equipment shall be so secured that it will not be a hazard or menace during high winds or hurricanes.

(Code 1967, § 13-1.1)

Sec. 9-48. - Violations and penalties.

- (a) If any condition exists which is in violation of section 9-47, the village, through its appointed representative, shall notify the owner of the property wherein the aforesaid equipment is kept, stored or placed in writing by mailing to the property's address, a request to abate such condition. Such owner may request a public hearing within ten (10) days of the notice on the basis of the issue of whether, in fact, such owner has violated section 9-47 and such hearing shall be granted at the next regular council meeting.
- (b) In the event such owner fails to request such hearing within ten (10) days from written notification of the existence of the condition or in the event that such condition is not abated within ten (10) days from written notification, upon the conviction of any owner of such property for failing to abate such condition as outlined above, such person shall be in violation of section 9-47, shall be fined for each violation of such section and shall pay therefor a sum not to exceed fifty dollars (\$50.00).

(Code 1967, § 13-1.2)

Sec. 9-49. - Enclosed storage of vehicles kept for rental or sale.

- (a) For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them as follows:

Automobile shall mean a vehicle for the transportation of persons or property on the highway, carrying its own power.

Boat shall mean a vessel or watercraft utilized to transport passengers and/or property on the waterways.

Trailer shall mean a separate vehicle, not driven or propelled by its own power, but drawn by some independent power.

Truck shall mean a wheeled vehicle carrying its own power and used primarily for the transporting of property.

- (b) No property owner shall have located on his property five (5) or more automobiles, trailers, trucks or boats or any combination of them for sale or rental without having all of such automobiles, trailers, trucks or boats enclosed within an area which is surrounded on all sides, with the exception of an eight-foot area utilized for entry and exit, as follows:

- (1) By a finished block wall, struck block or stucco, and painted, six (6) feet in height, or
- (2) By landscaping in the form of a hedge, at least six (6) feet in height, arranged to form a solid hedge.
- (c) It is unlawful for any property owner, or any person leasing such property from a property owner to be in violation of this section and the village may revoke the occupational license of the person or entity doing business at the location where the violation is occurring.
- (d) This section does not grant any power or right concerning the operation of any business whatsoever, nor does it allow any use where such use is not permitted.

(Code 1967, § 13-1.3)

Secs. 9-50—9-65. - Reserved.

DIVISION 3. - NOISE^[4]

Footnotes:

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Cross reference— Buildings and building regulations, Ch. 6; licenses and business regulations, Ch. 10; motor vehicles and traffic, Ch. 12; streets, sidewalks and other public places, Ch. 14; zoning, Ch. 16.

Sec. 9-66. - Noise making devices, etc.

It shall be unlawful for any person to use any mechanical or musical device, band, orchestra, musical instrument, noise or sound making device attached, mounted or operated upon any vehicle for the purpose of advertising, soliciting or attracting attention thereto for any purpose whatsoever.

(Code 1967, § 12-4)

Sec. 9-67. - Restriction on volume of noise.

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

Audible means capable of being heard by such neighboring inhabitants with the doors and windows of the neighboring inhabitants' dwellings closed.

Neighboring inhabitant means a person residing to the west, north, south or east of the place from where such noise is emanating.

- (b) It shall be unlawful for any person to make, continue or cause to be made or continued any loud, excessive, unnecessary or unusual noise. The following acts, among others, are declared to be loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive:
 - (1) Radios, televisions, phonographs, musical instruments, etc.;
 - (2) Using, operating or permitting to be played, used or operated any radio, television, musical instrument, phonograph, stereo equipment, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace or quiet and comfort of the neighboring inhabitants in such manner as to be audible by such neighboring inhabitants.

(Code 1967, § 12-5)

Secs. 9-68—9-80. - Reserved.

DIVISION 4. - LITTERING^[5]

Footnotes:

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Cross reference— Buildings and building regulations, Ch. 6; licenses and business regulations, Ch. 10; motor vehicles and traffic, Ch. 12; solid waste, Ch. 13; streets, sidewalks and other public places, Ch. 14; zoning, Ch. 16.

State Law reference— Florida litter law, F.S. § 403.413.

Sec. 9-81. - Deposit of litter in streets and public places prohibited; public receptacles to be used.

No person shall throw or deposit litter, garbage, refuse or rubbish in or upon a street, sidewalk or other public place within the village except in public receptacles for collection.

(Code 1967, § 14-14)

Cross reference— Streets, sidewalks and other public places, Ch. 14.

Sec. 9-82. - Throwing litter from vehicles prohibited.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter, garbage, refuse or rubbish upon any street or any public place within the village or upon any private property.

(Code 1967, § 14-16)

Cross reference— Motor vehicles and traffic, Ch. 12.

Sec. 9-83. - Dropping litter, etc., from aircraft prohibited.

No person in an aircraft shall throw out, drop or deposit within the village any litter, garbage, refuse or rubbish, handbill or any other object.

(Code 1967, § 14-17)

Sec. 9-84. - Sweeping litter into gutters, etc., prohibited; property owners to keep sidewalks free of litter.

No person shall sweep into or deposit in any gutter, street or other public place within the village the accumulation of litter, garbage, refuse or rubbish from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter, garbage, refuse or rubbish.

(Code 1967, § 14-18)

Cross reference— Streets, sidewalks and other public places, Ch. 14.

Sec. 9-85. - Property owners to maintain premises free of litter.

The owner or person in control of any private property shall at all times maintain the premises free of litter, garbage, refuse or rubbish; provided, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(Code 1967, § 14-19)

Sec. 9-86. - Litter, etc., dropping from trucks prohibited.

No person shall drive or move any truck or other vehicle in the village unless such vehicle is so constructed or loaded as to prevent any load contents of litter, garbage, refuse or rubbish from being blown or deposited upon any street, alley or other public place. No person shall drive or move any vehicle or truck within the village the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind.

(Code 1967, § 14-20)

Cross reference— Motor vehicles and traffic, Ch. 12.

Secs. 9-87—9-90. - Reserved.

DIVISION 5. - GRAFFITI^[6]

Footnotes:

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Editor's note— Ord. No. 276, §§ 1 and 3, adopted March 19, 1992, did not specifically amend the Code; hence, its inclusion herein as Art. II, Div. 5, §§ 9-91 and 9-92 was at the discretion of the editor.

Sec. 9-91. - Unwelcome graffiti.

- (a) No person shall write, paint, or draw any inscription, figure, or mark of any type on any public or private building or other real or personal property, owned, operated, or maintained by a governmental entity or any agency or instrumentality thereof, or by any person, firm, or corporation, unless the express permission of the owner or operator of the property has been obtained.
- (b) No person shall carry an aerosol spray paint can(s) or broad-tipped indelible marker(s) with the intent to violate the provisions of subsection (a) above.

For the purpose of this section, the term "broad-tipped indelible marker" means any felt-tipped marker, or similar implement, which contains a fluid which is not water soluble and which has a flat or angled writing surface one-quarter (¼) inch or greater.

- (c) No person shall sell an aerosol spray paint can(s) or broad-tipped indelible marker(s) to a minor with the intent to violate the provisions of subsection (a) above.

- (d) No person shall purchase an aerosol spray paint can(s) or broad-tipped indelible marker(s) for a minor for the purpose of violating the provisions of subsections (a) and (b) above.

For the purpose of this section, the term "minor" shall include persons who are under eighteen (18) years of age.

- (e) No minor shall be in possession of an aerosol spray paint can(s) or broad-tipped indelible marker(s) with the intent to violate the provisions of subsection (a) above.
- (f) In addition to any punishment, the court may order the defendant to make restitution to the victim for damage or loss caused directly, or indirectly, by the defendant's offense in a reasonable amount or manner to be determined by the court. Where the defendant is a minor, the court may order the parent(s) or legal guardian(s) of such minor to make such restitution.
- (g) In addition to any punishment, the court may in its discretion order the defendant to perform monitored community service.
- (h) Whenever the village becomes aware of the existence of graffiti on any property, including structures or improvements within the village, a code enforcement officer or a police officer is authorized, upon such discovery, to give, or cause to be given, notice to remove or effectively obscure such graffiti to the property owner, the property owner's agent or manager, or other person in possession or control of the property.
 - (1) It shall be unlawful for any person or firm owning property, acting as manager or agent for the owner of property, or in possession or control of property to fail to remove or effectively obscure any graffiti from such property within thirty (30) days from receipt of the notice described in the opening paragraph of this subsection. If the person or firm owning such property, acting as manager or agent for the owner of such property, or in possession or control of such property, fails to remove or effectively obscure the graffiti within the time period enumerated above, the village shall cause the graffiti to be removed or effectively obscured and charge the property owner, or property owner's manager or agent, for the expenses incurred by the village. The village may sue in a court of competent jurisdiction to recover such expenses, together with attorneys' fees and costs.
 - (2) Any person or firm owning property, acting as agent or manager for the owner of such property, or in possession or control of such property, who commits a violation of the opening paragraph of this subsection, shall be punished by a fine of not more than one hundred dollars (\$100.00). In deciding the amount of fine to impose, the hearing officer shall consider the efforts taken by the violator, if any, to remove or effectively obscure the subject graffiti in a timely manner and how often the violator has been victimized by graffiti during the preceding calendar year. The provisions of this subsection shall not apply to a property owner, manager, agent or possessor of property if, in the sole determination of the Village of Virginia Gardens Graffiti Coordinator, or the mayor's designee, such property owner, agent, manager, or possessor has been victimized two (2) or more times by graffiti within any calendar year, and, during such time, has removed or effectively obscured such graffiti from the property in a timely manner.
- (i) There is hereby created the Village of Virginia Gardens Anti-Graffiti Trust Fund. Civil penalties assessed against violators of this section ultimately received by the village shall be placed in the fund. The village council of the Village of Virginia Gardens shall direct the expenditure of monies in the fund. Such expenditures shall be limited to the payment of the cost of removal of graffiti, the costs of administering this division, and such other public purposes as may be approved by the village council by resolution.

(Ord. No. 276, § 1, 3-19-92)

Sec. 9-92. - Violations; penalties.

Any person, firm or corporation convicted of violating the provisions of this division, or any part hereof, shall be punished by a fine of not more than two hundred fifty dollars (\$250.00) for a first offense, and of not more than five hundred dollars (\$500.00) for a second or subsequent offense, or by imprisonment in a county jail for a term not to exceed sixty (60) days, or by both such fine and imprisonment in the discretion of the court. Where a minor is found to have violated section 9-91(a)—(d) hereinabove, or all, the fine imposed by this section shall be assessed against such minor's parent(s) or legal guardian(s).

(Ord. No. 276, § 3, 3-19-92)

Secs. 9-93—9-100. - Reserved.

DIVISION 6. - ABANDONED AND VACATED PROPERTY^[7]

Footnotes:

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Editor's note— Ord. No. 348, §§ 2—8, 12, adopted Oct. 21, 2012, did not specifically amend the Code; hence, inclusion herein as Div. 6, §§ 9-101—9-108, was at the editor's discretion.

Subdivision 1. - Registration of Mortgaged Real Property/Mortgages in Default

Sec. 9-101. - Purpose and intent.

It is the purpose and intent of this division is to establish a process to limit and reduce the amount of deteriorating property located within the Village of Virginia Gardens, about which property a public notice of default has been filed, is in foreclosure, or where ownership has been transferred to lender or mortgagee by any legal method. It is further intended to establish a registration program as a mechanism to protect neighborhoods from becoming blighted through the lack of inadequate maintenance of abandoned and vacated properties subject to a mortgage or properties subject to mortgages that are in default.

(Ord. No. 348, § 2, 10-21-2010)

Sec. 9-102. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning. Where the context will permit and no definitions are provided herein, the definitions provided in the Florida Building Code shall be:

Abandoned real property means any real property that is vacant and/or is under a public notice of default, notice of mortgagee's sale, pending tax assessor's lien sale and/or properties that have been the subject of a foreclosure sale where title is retained by the mortgagee, and any properties transferred under a deed-in-lieu of foreclosure sale, a short sale or any other legal means.

Default means that the mortgagee files a foreclosure action or public notice of default on the mortgage. A mortgage shall be considered in default at such time as the mortgagee declares said mortgage to be in default either in writing, by recording a lis pendens, or by its actions, or commences foreclosure proceedings.

Enforcement officer means any full-time law enforcement officer, building official, fire inspector or code enforcement officer employed by the Village of Virginia Gardens.

Evidence of vacancy means any condition that on its own, or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, electricity, water or other utilities turned off, stagnant swimming pool, statements by neighbors, passers-by, delivery agents or government agents, among other evidence.

Foreclosure means the judicial process by which a property, placed as security for a mortgage loan, after a judicial process, is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

Vacant means any building or structure that is not lawfully occupied or inhabited by human beings.

(Ord. No. 348, § 3, 10-21-2010)

Sec. 9-103. - Applicability.

This division relates to abandoned and vacant property and to property subject to a mortgage that has been determined by the mortgagee to be in default.

(Ord. No. 348, § 4, 10-21-2010)

Sec. 9-104. - Penalties.

Violations of this division shall be subject to enforcement by the code enforcement board of the village.

(Ord. No. 348, § 5, 10-21-2010)

Sec. 9-105. - Registration of real property mortgagee holding mortgages in default.

- (a) Any mortgagee who holds a mortgage on real property located within the village shall perform an inspection of the property upon default by the mortgagor or prior to the issuance of a notice of default. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed vacant or abandoned and the mortgagee shall, within two (2) days of the inspection, register the property with the code enforcement office on forms provided by the office or its designee, even though the real property may not be vacant. If the mortgage on the property is in default, no later than ten (10) days after the date that a default is declared, the mortgagee shall register the property with the code enforcement office electronically via the internet and further located at [http://www.samplecity.com/vacant registry](http://www.samplecity.com/vacant_registry).
- (b) If the property is occupied but remains in default, it should be inspected monthly by the mortgagee or mortgagee's designee.
- (c) Within ten (10) days of the date the mortgagee declares its mortgage to be in default, the mortgagee shall register the real property with the village's designee and, at the time of registration, shall designate in writing a local property manager to inspect, maintain and secure the real property subject to the mortgage in default.
- (d) *Registration.* Registration pursuant to this section shall contain at a minimum the name of the mortgagee, the mailing address of the mortgagee, e-mail address, and telephone number and name of the local property manager and said person's address, e-mail address, and telephone number. The local property manager shall be responsible to inspect, secure and maintain the property. The property manager named in the registration shall be located within twenty (20) miles of the village and available to be contacted by the village, Monday through Friday between 9:00 a.m. and 5:00 p.m., holidays and lunch hours accepted. The village shall charge a fee of one hundred fifty dollars

(\$150.00) for any registration or a modification of registration and it may assign and delegate the collection of such fee to an independent contractor.

- (e) This section shall also apply to properties that have been the subject of a foreclosure sale where title is transferred to the mortgagee as well as any properties transferred to the mortgagee under a deed-in-lieu of foreclosure.
- (f) Properties subject to this section shall remain under the annual registration requirement, inspection, security, and maintenance standards of this section as long as they remain vacant or subject to having been declared by a mortgagee to be in default.
- (g) Any person or other legal entity that has registered a property under this division must report any change of information contained in the registration within ten (10) days of the change.
- (h) Failure of the mortgagee and/or property owner of record to properly register or to revise from time-to-time the registration to reflect a change of circumstances as required by this division is a violation of the codes of the village and may result in a citation by the code compliance division. Pursuant to a finding and determination by the code enforcement board that any property is in violation of village's ordinances, the village may take the necessary action to ensure compliance with its ordinance and place a [lien/s] on the property for the cost of the work performed to benefit the property and to bring it into compliance, which lien may be assigned to either the entity that performs the work or arranges to have the work performed.

(Ord. No. 348, § 6, 10-21-2010)

Sec. 9-106. - Maintenance requirements.

- (a) Properties subject to this division shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded personal items including, but not limited to, furniture, clothing, large and small appliances, or any other items that give the appearance that the property is abandoned or not being properly maintained. Weeds, overgrown brush or dead vegetation over ten (10) inches tall are prohibited.
- (b) The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure. Yards shall be landscaped and maintained pursuant to the standards set forth in the code. Landscaping shall include, but not be limited to, grass, ground cover, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential, commercial or industrial installation, as applicable. Landscaping shall not include weeds, gravel, broken concrete, asphalt or similar material.
- (c) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required landscape and removal of all trimmings and weeds.
- (d) Pools and spas shall be kept in working order so that pool and spa water remains free and clear of pollutants and debris. Pools and spas shall comply with the enclosure requirements of the village's code and the Florida Building Code.
- (e) Failure of the mortgagee and/or property owner of record to properly maintain the property is a violation of the code of ordinances of the village and may result in the issuance of a citation by the code compliance division. Pursuant to a finding and determination by the code enforcement board, the village may take the necessary action to ensure compliance with its ordinances and place a lien on the property and assign it as provided herein.

(Ord. No. 348, § 7, 10-21-2010)

Sec. 9-107. - Security requirements.

- (a) Properties subject to this division shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- (b) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child or adult to access the interior of the property and/or structure. Broken windows shall be secured by reglazing or boarding.
- (c) If a mortgage on the property is in default on the property and has become vacant or abandoned, a local property manager shall be designated by the mortgagee to perform the work necessary to bring the property into compliance with the code of ordinances and the local property manager must perform weekly inspections to verify compliance with the requirements of this section, and any other applicable laws or ordinances of the village.
- (d) When the property becomes vacant or abandoned, it shall be posted with the name and twenty-four-hour contact telephone number of the local property manager. The posting shall be no less than eighteen (18) inches × twenty-four (24) inches, and shall be of a font that is legible from a distance of forty-five (45) feet. The posting shall contain the following language:

THIS PROPERTY IS MANAGED BY _____ / _____ / _____. TO REGISTER PROPERTY AND OBTAIN AN APPROVED POSTER, _____.
- (e) The posting shall be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals. Exterior posting shall be constructed of and printed with weather-resistant materials.
- (f) Failure of the mortgagee and/or property owner of record to properly inspect and secure the property, and post and maintain the signage noted in this section, is a violation of this division and shall result in the issuance of a notice of violation by a code compliance officer. Pursuant to a finding and determination by a code enforcement board, the village may take the necessary action to ensure compliance with this section, and place a lien on the property and assign it as provided herein.

(Ord. No. 348, § 8, 10-21-2010)

Sec. 9-108. - Supplemental provisions.

Nothing contained in this division shall preclude the village from enforcing its codes by any other means, including, but not limited to, injunction, abatement or as otherwise provided by code.

(Ord. No. 348, § 12, 10-21-2010)

Chapter 10 - LICENSES AND BUSINESS REGULATIONS^[1]

Footnotes:

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Cross reference— Administration, Ch. 2; enforcement by the code enforcement board, § 2-71 et seq.; alarm systems regulations, Ch. 3; alcoholic beverages, Ch. 4; restrictions on locating retail liquor establishments near churches and schools, § 4-1; restrictions on locating beer or wine establishments near churches and schools, § 4-2; location of alcoholic beverage establishments in proximity of each other restricted, § 4-3; regulations regarding dish antennas, § 6-91 et seq.; finance and taxation, Ch. 8; health, sanitation and nuisances, Ch. 9; noise regulations, § 9-66 et seq.; littering regulations, § 9-81 et

seq.; franchise required for garbage and waste collectors, § 13-26; motor vehicles and traffic, Ch. 12; streets, sidewalks and other public places, Ch. 14.

State Law reference— Regulatory license, F.S. § 166.221; local occupational license tax, F.S. ch. 205.

ARTICLE I. - IN GENERAL

Sec. 10-1. - Garage and yard sales.

- (a) Garage and yard sales shall be permitted as a conditional use on the premises of residences, duplexes, and apartments subject to the conditions and restrictions provided in this section.
- (b) No garage sale shall be conducted until and unless a permit shall have been obtained from the village clerk.
- (c) Only the owner or lessee of the property upon which the garage or yard sale is being conducted may obtain such permit.
- (d) Before a permit shall be issued for a garage or yard sale, the applicant shall file with the village clerk an application containing the following information:
 - (1) Legal description and street address where such sale is to be conducted.
 - (2) Proof of ownership or lease of property.
 - (3) Date(s) of sale.
 - (4) Hour(s) of sale.
 - (5) Example of sign proposed to be used in connection with the sale.
- (e) Upon verification and compliance with the provisions of this section, the village clerk shall issue a permit the same day, which shall designate the location of the sale and the day(s) upon which such sale(s) shall be conducted.
- (f) Only personal property owned by the seller and usual to a household may be sold or offered for sale by the owner or lessee of the residence, duplex, or apartment where such sale is being conducted.
- (g) Only the sign not exceeding one hundred twenty (120) square inches in size may be displayed on the premises where such sale is being conducted. Such sign shall not be erected or placed closer than five (5) feet to the front or side property line, nor any public right-of-way.
- (h) The garage or yard sale shall be held only between the hours of 7:00 a.m. to 5:00 p.m. Saturday, Sunday, or legal holiday.
- (i) Personal property offered for sale at any garage or yard sale shall be exhibited or displayed only within establishment setbacks.
- (j) No more than two (2) consecutive days shall be permitted for any garage sale.
- (k) No more than two (2) garage or yard sales shall be held from the same property within any calendar year, provided however, that such garage or yard sales shall not be held within a thirty-day period from each other.
- (l) By making application for such garage or yard sale permit, accepting said permit, and conducting such sale, the owner or lessee of the property to whom such permit is granted, authorizes any code enforcement or police officer of the village to enter upon the property for the purpose of determining that such sale is being conducted in accordance with the provisions of this section.
- (m) Any person who violates any of the provisions of this section shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation. The penalties for violation of the provisions of this section shall be progressive, and applied as follows:

- (1) An initial violation, shall result in a written warning, and require that a permit be procured within the next two (2) working days, with payment of an administrative fee of twenty-five dollars (\$25.00).
 - (2) A second violation shall result in a written warning, and require that a permit be procured within the next two (2) working days, with payment of an administrative fee of fifty dollars (\$50.00).
 - (3) A third violation shall result in a written warning, and require that a permit be procured within the next two (2) working days, with payment of an administrative fee of seventy-five dollars (\$75.00), and subject the violator to the full penalties provided in subsections (m) and (n) of this section.
- (n) If it is determined that a violation of this section was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.
- (o) Any fine imposed for violation of this section or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 301, §§ 1—15, 4-16-98; Ord. No. 311, §§ 1—15, 9-21-00)

Sec. 10-2. - Special events.

- (a) *Special events prohibited.* No person shall sponsor, conduct, or operate any special event within the village without a special event permit in accordance with the provisions of this section.
- (b) *Definitions.* The following definitions shall apply for purposes of this section.

Person means any individual, firm, corporation, partnership, joint venture, syndicate, organization, association, or other group or combination acting as a unit, organization, association, corporation, or other legal entity, and shall include the plural as well as the singular.

Minor special event means a special event which is of a temporary, noncommercial nature, whether operated totally outdoors, on stage, under tents, or with the use of temporary buildings, facilities, structures, or fixtures, which: (1) will be attended by less than fifty (50) persons; (2) have a limited impact on the surrounding neighborhood in regards to traffic, parking, and noise, and (3) not exceed the capacity of the facility or other property proposed to be used.

Special event means any concert, festival, celebration, promotional event, circus, carnival, show, exhibition, and other similar events, which is of a temporary nature, whether operated totally outdoors, on stage, under tents, or with the use of temporary buildings, facilities, structures, or fixtures, to which members of the public are invited as patrons, participants, or spectators.

- (c) *Exceptions.*

- (1) *Village sponsored events.* This article shall not apply to any special event or minor special event which is sponsored or conducted, in whole or in part, by the village.
 - (2) *Minor event.* This article shall not apply to a minor event which is sponsored by a charitable, nonprofit, civic, neighborhood, or homeowner association or organization.
 - (3) *Residential events.* This article shall not apply to an event or function held at private home or resident by the homeowner, and which event or function is of private and nonprofit nature.
 - (4) *Charitable, religious, nonprofit organizations.* The mayor may, upon proper verification, and being satisfied with the status of the sponsoring organization, waive only the administrative fees for a special event permit for a special event sponsored by a charitable, religious, nonprofit, civic, neighborhood, or homeowner association or organization.
- (d) *Special event permit required.* Any person who desires to sponsor, conduct, or operate a special event shall first obtain a special event permit from the village, in accordance with this section.

(e) *Zoning.*

- (1) Special events by commercial or business enterprises may be held only in those areas of the village which are designated "business" zones.
- (2) Special events to be held by schools, churches, governmental entities, and other charitable or nonprofit organizations, may hold events regulated by this article at any location or zoning district in the village, after approval by the mayor.

(f) *Application for special event permit.* To obtain a special event permit, any person who desires to sponsor, operate, or conduct a special event shall submit an application, substantially in the form appearing on appendix 1 to the ordinance from which this section is derived, on file in the office of the village clerk, to the village clerk, no less than sixty (60) days in advance of the proposed event. The village clerk, has the discretion to, and may waive the sixty-day lead period, after consultation with the village police chief and building official, or their designees, provided there is sufficient time to process an application in accordance with this section.

(g) *Contents of application.* The application for a special event permit shall, in addition to such other information as deemed necessary by the administration of the village, within their discretion, contain:

- (1) The identity of the applicant, including the applicants status, i.e. "sponsor, operator, or contractor" and the contact information for the principal or other person who will be physically present at, and supervise the special event;
- (2) A description of the event;
- (3) A detailed proposal of the location, including a drawing of the proposed site showing all means of ingress and egress, and approximate location or placement of any tent, equipment, fixture, or temporary facility;
- (4) The proposed hours and dates of operation;
- (5) A statement of whether, and if so, what type of alcoholic beverages are going to be served;
- (6) The estimated attendance;
- (7) The proposed security and crowd control;
- (8) The proposed traffic control and parking facility;
- (9) The proposed sanitary facilities, including proposed plan for clean up of the site and contiguous public areas and right of ways, and trash and garbage collection and removal;
- (10) A copy of an insurance binder or contract which names the applicant as an insured and provides coverage for such special event; and
- (11) A copy of any contract between the applicant and any person providing security, rides, temporary facilities, mechanical entertainment, or amusement devices for the event.
- (12) The applicant shall furnish such other information and documentation as deemed appropriate by the village.
- (13) [The applicant shall] execute a special event agreement.

(h) *Fee.* The applicant for a special event permit shall, contemporaneous with the presentation of the application for a special event permit, pay the village clerk the corresponding administrative fee of six hundred (\$600.00) dollars, if the applicant will either sponsor or operate the special event, and is the person who will administer and supervise the special event.

(i) *Administrative process.*

- (1) *Village clerk.* The village clerk will, upon receipt of the application with the appropriate fee, forward a copy to the village chief of police and building official, or their designees.

- (2) *Police and building departments.* The village chief of police and building official, or their designees, shall each, within their areas of responsibility, but jointly, perform each of the steps set forth in this subsection.
- a. They shall review the application for a special event permit in order to evaluate the impact of the proposed event upon the health, safety, and welfare of the community, taking into consideration (1) estimated attendance; (2) security requirements; (3) sanitation facilities; (4) impact on the surrounding neighborhood in regards to traffic, parking, and noise, and (4) the capacity of the facility.
 - b. They shall make a determination and prepare a joint written report, containing their respective determinations of, and delineating requirements for (1) crowd and traffic control, based upon the estimated attendance and traffic generated by the event; (2) parking; (3) required security personnel; (4) required sanitary facilities, and such other factors as they may deem appropriate to protect the health, safety, and welfare of the community.
 - c. After completing their review and written report, the village chief of police and building official, or their designees, shall jointly meet with the applicant to discuss and permit the applicant an opportunity to comment on their determination and requirements. If the applicant disagrees with any requirement proposed by the police and building officials, such subject of disagreement shall be noted in the written report for consideration by the mayor.
- (j) *Preparation of special event agreement.* The chief of police and building official, or their designees, shall prepare a proposed special event agreement, using the form appearing on appendix 2 to the ordinance from which this section is derived, on file in the office of the village clerk, which shall specify and incorporate such requirements, terms, and conditions as they may determine and deem appropriate to protect the health, safety, and welfare of the community, in accordance with their written report.
- (k) *Special event agreement contents.* The special event agreement, in addition to such other requirements, terms, and conditions, as deemed appropriate by the police and building officials, to protect the health, safety, and welfare of the community, shall contain the following terms and conditions:
- (1) Use of fireworks shall comply with all applicable laws and regulations, and requires a permit from the fire department.
 - (2) Sanitary facilities shall be provided and shall be of the type and in a sufficient number as to meet the requirements established by the relevant South Florida Building Code.
 - (3) The police chief and building official, or their designees, shall conduct an inspection of the site, prior to the day of the event, to determine that, in addition to all requirements delineated in the special event agreement are met, the site is in compliance with all building and safety codes, particularly as to sanitary facilities, and electrical facilities.
 - (4) Sponsors of special events at which food or beverages will be sold or distributed shall meet all applicable state, county, and municipal health codes.
 - (5) Current flameproof certificates must be provided for all canvas, tents, awnings, or canopies.
 - (6) The police department may require the applicant to provide and pay for off-duty police personnel, in such number as it determines necessary, and such other security personnel for crowd control and traffic direction purposes.
 - (7) The applicant shall provide a certificate of insurance satisfactory to the village, such insurance to be comprehensive general liability insurance in a minimum amount of one million dollars (\$1,000,000.00), combined single limit coverage, naming the village as an additional insured. If alcoholic beverages are to be dispensed, served, sold, or distributed at the outdoor event, the applicant shall in addition provide liquor liability insurance in a minimum amount of five hundred thousand dollars (\$500,000.00). A self-insured governmental or nonprofit organization entity may be exempted from the insurance requirements of this article by the mayor.

- (8) The applicant shall indemnify and hold harmless the village for any damages to person or property which might occur during or as a result of the operation of the outdoor event.
- (9) The applicant shall post a refundable clean up bond in the amount of five hundred (\$500.00) dollars with the village clerk, which bond shall be refundable upon satisfactory inspection of property and contiguous public areas by the designated village official after the special event. The mayor may waive the requirements of this section.
- (l) *Transmittal of report and proposed agreement.*
 - (1) After completing their written report, meeting with the applicant, and preparing a special event agreement, the village police and building officials shall forward a copy of their report with the proposed special event agreement to the village clerk.
 - (2) The village clerk shall submit the report to the mayor for review and preliminary approval.
- (m) *Special event agreement required.* No person shall hold or participate in a special event prior to the delivery to the village of properly executed copies of a special event agreement and a certificate of insurance, as required by this section.
- (n) *Authorization and approval by mayor.* The mayor, after a proper application has been filed, reviewed, and processed in accordance with this section, may authorize the village clerk, after proper verification, to issue a permit under the provisions of this section, permitting a special event to be held within the village for a temporary period of time.
- (o) *Issuance of permit.* Upon authorization by the mayor, and after verification of compliance with the provisions of this ordinance, the village clerk shall issue a permit, which shall designate the person authorized to hold a special event, the location where such special event may be held, and the day(s) and time(s) during which such special event may be held.
- (p) *Consent for police and code inspection.* By making application for a special event permit, accepting a permit, and conducting a special event, the person to whom such permit is granted, authorizes any police, building, or code enforcement officer of the village to enter upon the property for the purpose of determining that such special event is being conducted in accordance with the provisions of this section.
- (q) *Unauthorized special event to be closed.* The village police shall, in addition to issuing a citation for violation of this section to each person involved or participating in a violation of this section, order the closing of any place or establishment that is attempting to conduct, or actually conducting a special event without a valid special event permit, in accordance with this section.
- (r) *Penalties.*
 - (1) Any person who violates any of the provisions of this section shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.
 - (2) In addition to the penalty set forth in subsection (1) above, of this section, any person who holds an occupational license from the village, and who conducts or attempts to conduct a special event in violation of the provisions of this section, shall be subject to revocation of its occupational license, upon a finding that such violation was willful.
- (s) *Cost.* If it is determined that a violation of this section was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.
- (t) *Lien.* Any fine imposed for violation of this section or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 302, §§ 1—20, 4-16-98)

Editor's note— Ord. No. 302, §§ 1—20, adopted Apr. 16, 1998, did not specifically amend the Code; hence inclusion as a new § 10-2 was at the editor's discretion.

Secs. 10-3—10-25. - Reserved.

ARTICLE II. - LOCAL OCCUPATIONAL LICENSE^[2]

Footnotes:

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Cross reference— Finance and taxation, Ch. 8.

State Law reference— Local occupational license tax, F.S. ch. 205.

Sec. 10-26. - Required for all businesses, occupations and professions; filing of application.

- (a) Every person engaged in or managing any business, profession or occupation referred to in section 10-36, and domiciled in the village, is required to procure a license as herein provided and shall, on or before October first of each year and always before engaging in any business, profession or occupation, file an application on the prescribed form with the village clerk, signed by an officer, partner or owner of the business, giving his name, profession or occupation and place of business; and no person shall engage in or manage any such business, profession or occupation until after having so applied. If October 1 should fall on a day which is a Saturday, Sunday or legal holiday, then such license tax shall be due and payable on or before the next working day after October 1 which is not a Saturday, Sunday or legal holiday.
- (b) Any person engaging in or managing any business, occupation or profession without first obtaining an occupational license from the village clerk, if so required, shall be subject to a penalty of twenty-five (25) percent of the license determined to be due, in addition to any other penalty provided by law or ordinance.

(Code 1967, § 10-1)

Sec. 10-27. - Payment required for each separate location.

No person shall engage in or manage any business, occupation or profession listed in section 10-36 hereof and required to be licensed by the village, without first having paid the amount of license required for each separate location in the village and having obtained a village license therefor.

(Code 1967, § 10-2)

Sec. 10-28. - Issuance; date of expiration; term.

Except as otherwise provided, licenses shall expire on the thirtieth day of September of each year. No license shall be issued for more than one (1) year.

(Code 1967, § 10-3)

Sec. 10-29. - Penalty for failure to renew.

Occupational licenses not renewed by October 1 of each year shall be considered delinquent and subject to a delinquency penalty of ten (10) percent for the month of October, plus an additional five-percent penalty for each month of delinquency thereafter until paid; provided, that the total delinquency penalty shall not exceed twenty-five (25) percent of the occupational license fee for the delinquent establishment.

(Code 1967, § 10-3.1)

Sec. 10-30. - Proration of tax.

Unless otherwise provided, for each license obtained between October 1 and April 1, the full tax for one (1) year shall be paid and for each license obtained from April 1 to September 30, one-half the full tax for one (1) year shall be paid.

(Code 1967, § 10-4)

Sec. 10-31. - Transfer.

All licenses issued by the village shall be transferred with the approval of the village council with the business for which they were taken out, except as otherwise provided for by law, when there is a bona fide sale and transfer of the property used and employed in the business as stock in trade and not otherwise. The seller of the business shall present to the village council with the endorsement on the reverse side of the license issued, assigning all right, title and interest to the purchaser, and the purchaser shall produce a properly executed bill of sale showing the transfer of stock from the person licensed to the purchaser. Licenses may be transferred from one (1) location to another; provided, that the license is presented to the village council for approval of such transfer; and provided further, that no such license shall be transferred without the approval of the proper building and zoning department. A fee of three dollars (\$3.00) shall be paid for each transfer.

(Code 1967, § 10-5)

State Law reference— Fee authorized for transfer of licenses, F.S. § 205.043.

Sec. 10-32. - Termination as a result of bankruptcy.

When any person engaged in mercantile or other business in the village shall make an assignment for the benefit of creditors or when any such person shall be adjudicated a voluntary bankrupt or declared insolvent, any license issued theretofore shall immediately be terminated and shall upon such assignment for the benefit of creditors or upon such adjudication in bankruptcy, immediately become null and void.

(Code 1967, § 10-6)

Sec. 10-33. - Revocation.

The license of any person for the operation of any business may be revoked by the village council at any time, upon notice and hearing for the violation of any ordinance of the village law or the state or for any other good and sufficient reason.

(Code 1967, § 10-7)

Sec. 10-34. - Issuance of duplicates.

For the purpose of replacing any mutilated, destroyed or lost certificate or receipt relating to any occupational license granted by the village, the village council is hereby authorized and empowered to cause to be executed and delivered an appropriate duplicate certificate or receipt, upon the submission of evidence satisfactory to the council that the original certificate or receipt was mutilated, destroyed or lost, and upon the holder of such original furnishing the village with indemnity satisfactory to the council and upon the payment to the village by such holder of the sum of one dollar (\$1.00) for each such duplicate certificate or receipt executed and delivered hereunder. Such sum is hereby declared to be a reasonable amount to reimburse the village for the expense incidental to executing and delivery of each such duplicate certificate or receipt.

(Code 1967, § 10-8)

Sec. 10-35. - Operation of coin-operated machines.

License fee will be granted free to the operation of weighing and stamp machines if the machine is operated by a nonprofit organization or for charity; provided, that the organization files a certified statement with the village clerk stating that the vendor or operator will submit a monthly breakdown to the village showing the percentage of gross revenue from such device that will be allotted to such charity or nonprofit organization, and if the net revenue is less than forty (40) percent to the charity, then a license fee will be required. Any person, placing and maintaining any coin-operated merchandise or service vending machine, including any coin-operated newspaper vending machines or devices providing a place for inserting of a coin in payment or to operate regardless of whether such coin actuates any mechanical device or operation, in any outdoor public place, shall procure and file with the village clerk a liability insurance policy insuring the person, so placing such machine and the village against injury caused or occasioned by such machines, in the sum of ten thousand dollars (\$10,000.00) for injury to one (1) person, twenty thousand dollars (\$20,000.00) for injury to more than one (1) person in the same accident and five thousand dollars (\$5,000.00) property damage in any one (1) accident.

(Code 1967, § 10-10)

Sec. 10-36. - Schedule of fees.

OCCUPATIONAL LICENSES	
<i>Type of License</i>	<i>Current Fees</i>
Abstract & Title Companies	\$121.00
Advertising or Trade Inducement	\$404.25
Apartment Houses	\$24.20
Aircraft Instrument Training w/ Simulator	\$121.00
Each Additional Simulator	\$121.00

Aquariums	\$121.00
Art Goods and Bric-A-Brac	\$121.00
Auctioneer	\$242.55
Automobiles - All automotive-related business, including buying, selling, rentals & trading; gasoline or service station; auto body repair storage; tire sales, repair & towing.	\$346.50
Trailer Agencies or persons buying, selling, and trading new or used.	\$242.55
Trucks, Tractors, and Other Heavy Vehicles Agencies, persons engaged in buying selling or trading new or used.	\$242.55
Bakeries	\$121.00
Banks, Financial Institutions, Savings & Loan Assoc, Trust Company or other bus. which primarily engages in financial trans.	\$577.50
Barbershops:	
First chair or booth (min. \$25.00)	\$23.96
Each additional chair	\$16.34
Bath and Massage Parlors	\$121.00
Beauty Shops	\$121.00
Bicycle Sales, Rentals & Repair	\$121.00
Bonding Companies or Individuals	\$242.55
Bond, Stock, Mortgage, Security Brk.	\$242.55
Books, Magazine, Newspaper, Broker	\$121.00
Boot & Shoe Repair	\$121.00
Bowling Alleys	\$121.00

Brokers & Agents - Represents a Manufacturer, Producer or Seller.	\$121.00
Business Machines, Dealers in Sales, Repairs & Service	\$242.55
Car Wash Service	\$121.00
Caterers	\$108.90
Cigar & Tobacco Store	\$121.00
Coin, Currency, or Card Operated Machines (Vending Machines) Fee for Each Machine	\$30.25
Collection Agency	\$121.00
Confectionary Stores	\$121.00
Constructions Companies	\$202.13
Contractors:	
General Contractor	\$444.68
General Subcontractor	\$323.40
Building Subcontractor	\$242.55
Specialty Building Company Plus \$25.00 for each additional spec.	\$202.13
General Engineering	\$444.68
Specialty Engineering	\$202.13
Liquid Petroleum Gas Installation	\$242.55
Paint Contractor	\$288.75
Plumbing Contractor	\$242.55
General Mechanical Contractor	\$242.55

Sub-general Mechanical Contractor	\$202.13
Specialty Mechanical Contractor	\$202.13
Convenience Store - under 2,000 sq. ft.	\$220.50
Curio Stores	\$121.00
Dance Studios & Schools	\$121.00
Delicatessen, alone or w/another bus.	\$121.00
Dressmaking and Alterations	\$121.00
Drug Stores	\$242.55
Dry Cleaning & Laundry	\$242.55
Agency, No Cleaning or Pressing	\$121.00
Electrical Appliances, Sales & Service	\$242.55
Electric Light & Power Companies	\$577.50
Escort Services	\$1,312.50
Establishment Selling Beer and Wine	\$693.00
Express Companies	\$404.25
Factories, Owners and Operators	
Not exceeding 5 persons	\$108.90
More than 5, not exceeding 10 persons	\$163.35
More than 10, not exceeding 15 persons	\$242.55
More than 15, not exceeding 25 persons	\$363.83

More than 25 persons	\$485.10
Finance Companies	\$363.83
Florists	\$121.00
Fortunetellers (all methods)	\$2,079.00
Freight Forwarders	\$231.00
Fruit & Produce Stores	\$121.00
Furniture Stores	\$346.50
Garden Supply Stores	\$65.34
Gas Companies	\$65.34
Hardware Stores	\$404.25
Hats	\$121.00
Hotels: plus	\$262.50
Each Room	\$5.50
Importers & Exporters	\$207.90
Insurance Agency	
Permitting Operation of 1 person	\$121.00
Each additional person	\$10.89
Interior Decorating	\$121.00
Jewelry Store	\$577.50
Laundries - See Coin Operated	

Lawn Services	\$121.00
Leather Goods Stores	\$121.00
Lodge Halls	\$121.00
Liquor Stores	\$1,443.75
Luggage Stores	\$121.00
Major Appliances and Repair	\$207.90
Merchants, Retail, Not Otherwise Specified:	\$121.00
Average Stock Of Goods not exc. \$1,000.00	
Each additional \$1,000.00 for fraction	\$7.62
Medical Equipment Sales/Rentals	\$121.00
Merchants, Wholesale	\$151.25
Messenger Service Shops	\$121.00
Millinery Stores	\$121.00
Modesties, Wearing Apparel	\$121.00
Music Stores	\$121.00
Newsstands	\$121.00
Night Clubs, and restaurants or cafes or any place of business operated after 11:00 p.m., where food or refreshments are sold or served, at which or in connection with which any vaudeville, theatrical or similar entertainment is given	\$1,386.00
Optical Stores	\$121.00
Peddlers and Vendors, not specified herein, all persons soliciting, selling or collecting products or merchandise in the corporate limits of the village (excluding newspapers) shall	\$32.67

pay a fee (each person)	
Photographer, Camera & Supplies	\$121.00
Printing & Publishing Establishments	\$404.25
Professional:	\$121.00
Each person engaged in practice of any profession herein listed as a profession permitting the operation of one person, i.e., lawyer, physician, chiropractor	
Radio & Television Sales & Service	\$207.90
Real Estate, Broker or Agency	
One person	\$121.00
Each additional person	\$10.89
Restaurants, Cafes, Lunch Counters, & Soda Fountains not exceeding 10 chairs	\$32.67
Each additional chair	\$2.73
Restaurants, take-out food establishment where dinners, lunches, sandwiches and accrudiments are sold alone or in conjunction with other business.	\$108.90
Restaurants, where alcoholic beverages are sold:	
Serving Hard Liquor	\$1,443.75
Serving Beer and Wine Only	\$693.00
Schools, Private	\$121.00
School Buses, Private	\$121.00
Service Stations - See Automobile	
Shoe Stores	\$121.00

Single-Family Homes, Rental, for each home rented	\$43.56
Soliciting:	
Books, Magazines & Other Periodicals, excluding newspapers, per person	\$163.35
Pictures or Enlargements, each person	\$163.35
Souvenir Stores	\$121.00
Sporting Goods Stores	\$121.00
Stationery Stores	\$121.00
Storage Warehouses - over 2,000 sq. ft.	\$577.50
Supermarkets - under 2,000 sq. ft. - see Convenience Stores	
Supermarkets - under 5,000 sq. ft.	\$346.50
Supermarkets - over 5,000 sq. ft.	\$577.50
Tailor Shops	\$121.00
Tattoos and Body Piercing	\$1,050.00
Taxicabs, maximum fee \$25.00 each	\$10.89
Telegraph Companies	\$404.25
Telephone Companies:	
First 1,000 phones, each	\$0.17
Second 1,000 phones, each	\$0.15
All over 2,000 each	\$0.14
Theaters, minimum \$150.00, per seat	\$0.55

Trash and Garbage Hauling and Pickup	\$121.00
Each Dumpster	\$30.25
Tourist Camp or Park	
Not exceeding ten rooms	\$121.00
Each additional room	\$3.03
Travel Bureaus	\$242.55
Vending Machines - See Coin, Currency, or Card Operated Machines	
Water Companies	\$16.34
Other Licenses:	\$121.00
Every business, occupation, profession or exhibition, substantial, fixed or temporary, engages in by a person whether in a building or tent, or upon the street, vacant lot or anywhere in the open air in the village, not herein specified shall pay a license fee minimum of (Code 1967, § 10-9)	\$135.00

All occupational licenses issued by the village shall be according to the primary business activity in which the licensee is engaged or which the licensee transacts.

"Primary business activity," as used in this section, shall be that business activity which accounts for fifty (50) percent or more of the licensee's annual gross revenue, or that business activity to which the licensee devotes fifty (50) percent or more of the total area of the licensed premises.

In addition, to the primary business activity of the licensee, each licensee shall disclose all other business activities in which the licensee engages or which the licensee transacts.

When a licensee engages or conducts secondary business activities at the same location, a license is required for each secondary business activity falling within a different classification within the current occupational license schedule of the village, even if such secondary business activities are conducted under a single ownership or at single site.

"Secondary business activity," as used in this section shall be those business activities that are carried out at the same location that fall within a different classification under the current occupational license schedule of the village, and which are not necessary to the operation of the primary business activity for which the license was issued or which account for less than fifty (50) percent of the licensee's annual gross revenue, or to which the licensee devotes less than fifty (50) percent of the total area of the site occupied by the business.

"Dual businesses," as used in this section shall be those businesses which are conducted under a single ownership or at a single site, and which conduct only two business activities neither of which business activity accounts for more than fifty (50) percent of the licensee's annual gross revenue, or to which the licensee devotes more than fifty (50) percent of the total area of the site occupied by the business.

All occupational licenses issued by the village shall list the primary category of the business being licensed and all secondary categories.

The fee charged for all occupational licenses issued by the village shall be according to the primary type of business activity in which the licensee is engaged or which the licensee transacts. In addition to the primary fee charged each licensee according to the primary business activity in which the licensee is engaged or which the licensee transacts, each licensee shall pay a fee for each secondary business activity in which the licensee is engaged or which the licensee transacts.

The fee for each secondary type of business activity shall be equal to fifty (50) percent of the fee corresponding to each additional category as listed in the current occupational license fee schedule (i.e. a grocery store that also has a bakery and a cafeteria on the premises, would pay the full license fee for the grocery store, plus fifty (50) percent of the fee corresponding to the bakery license and fifty (50) percent of the fee corresponding to the cafeteria license).

In the event of a "dual business," the fee charged shall be the full amount for each of the two (2) business activities conducted.

(Code 1967, § 10-9; Ord. No. 296, § 3, 9-12-95; Ord. No. 337, § 1(Sch. A), 9-20-07)

Editor's note— Ord. No. 337, § 1(Sch. A), adopted Sept. 20, 2007, did not specifically amend the Code; hence, inclusion herein as superseding the former fee table in § 10-36 was at the editor's discretion.

Sec. 10-37. - System of complaints and action concerning occupational licenses.

- (a) Any person who procures or renews an occupational license for or to operate a residential office shall be provided with a written list of the requirements and restrictions pertaining to said residential office use.
- (b) Upon issuance or renewal of an occupational license for a residential office, the applicant or licensee shall be required to sign a copy of the statement of the requirements and restrictions, substantially in the form attached as appendix 1 to the ordinance from which this section is derived, on file in the office of the village clerk.
- (c) In the event that any individual observes a possible violation of the restrictions or requirements imposed upon the residential office licensees, the individual may (a) present a written complaint by filling out the form prescribed as appendix 2 to the ordinance from which this section is derived, on file in the office of the village clerk, (b) file a complaint anonymously by telephone by providing all the information required by the form prescribed as appendix 2 to the ordinance from which this section is derived, on file in the office of the village clerk, or (c) present a written complaint anonymously by sending a letter containing substantially all the information required by the form prescribed as appendix 2 to the ordinance from which this section is derived, on file in the office of the village clerk.
- (d) The village clerk shall immediately upon receipt of a complaint assign a number to the complaint. The number shall be designated by the month, date, and year followed by the numerical sequence of the complaint (i.e. 03-20-97-000). This number shall be used for tracking the complaint. Upon request, the number assigned to the complaint shall be provided to any complainant.
- (e) Upon receiving a complaint of violation, the village official charged with the responsibility for code enforcement shall issue a notice of violation to the licensee, together with a copy of the complaint, by certified mail substantially in the form contained in appendix 3 to the ordinance from which this

section is derived, on file in the office of the village clerk. The notice issued pursuant to this section shall serve as notice to the licensee to correct any existing violation or to cease and desist from any continuing violation, and shall advise the licensee that they have ten (10) days from receipt of the notice to correct the violation and to cease and desist from any continuing violation.

- (f) The licensee shall, within ten (10) days of receipt of a notice of violation, file a written response to the notice of violation with the village clerk. The written response shall admit, deny, explain the allegations of the complaint, or certify that the violation has been corrected.
- (g) Upon receipt of the licensee's written response, the code enforcement official for the village shall conduct a reasonable investigation to determine whether there is probable cause to believe that the licensee has violated the restrictions imposed upon the residential office occupancy. The investigating official shall file a written report setting forth all aspects of the investigation, and providing his/her conclusion.
- (h) Should the code enforcement official determine that there is probable cause to believe that a violation exists, the official shall issue a citation for the violation and then notify the licensee by serving the licensee, by certified mail, with a copy of the report and a citation for the violation issued.
- (i) Upon the issuance of a citation for a violation of the residential office restrictions, the matter shall be referred to the planning and zoning board for a full hearing. The complete file shall be transmitted by the village clerk to the chairman of the board.
- (j) The planning and zoning board shall conduct a full evidentiary hearing. All aspects of this hearing shall be recorded by a licensed or certified court reporter and the transcript filed with the village clerk together with all exhibits comprising the record of this proceeding.
- (k) At the conclusion of the hearing, the planning and zoning board may choose to (a) recommend a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation, (b) that licensee be placed on a probationary period, or (c) that the occupational license be revoked for a period not to exceed twelve (12) months at the discretion of the board. The board may recommend any combination of the permitted penalties.
- (l) After conducting a full evidentiary hearing, the planning and zoning board, shall make findings of facts and issue a recommendation. In accordance with relevant law, the recommendation of the planning and zoning board must be supported by substantial and competent evidence.
- (m) After the planning and zoning board has reached its conclusion and issued a recommendation, the matter shall be presented to the village council for a final determination at its next regularly scheduled meeting. The village council may choose to ratify, refute, or modify the recommendation of the planning and zoning board.
- (n) If it is determined that a violation of this section was committed by the licensee, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.
- (o) Any fine imposed for violation of this section or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 299, §§ 1—15, 5-15-97)

Editor's note— Ord. No. 299, §§ 1—15, adopted May 15, 1997, did not specifically amend the Code; hence inclusion as a new § 10-37 was at the editor's discretion.

Secs. 10-38—10-55. - Reserved.

ARTICLE III. - PEDDLERS, TRANSIENT/MOBILE MERCHANTS OR VENDORS^[3]

Footnotes:

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Editor's note— Ord. No. 339, §§ 1—17, adopted May 21, 2009, did not specifically amend the Code; hence, inclusion herein as superseding former Art. III, §§ 10-56—10-62, was at the editor's discretion. The former Art. III pertained to peddlers, itinerant vendors and solicitors, and derived from Code 1967, §§ 16-1—16-7.

Cross reference— Streets, sidewalks and other public places, Ch. 14.

Sec. 10-56. - Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

Door to door. An activity which is conducted in whole or in part by traveling or moving, either by walking or by vehicle, from house to house or business to business.

Peddler, transient or mobile merchant or vendor. Any individual, entity, or organization that engages or participates in, or conducts any activity within the village, which activity is or appears designed or intended, in whole or in part, to have as its objective to market, merchandise, sell, or in any manner promote or cause the sale of any good(s), ware(s), merchandise, or service, whether the actual sale is consummated within the village, or to be consummated when approved by some other person elsewhere. This shall include any individual, entity, or organization that engages or participates in, or conducts any activity going from, or calling upon house to house, door to door, either on foot or by auto or truck, marketing, merchandising, or otherwise promoting the sale of any goods, wares, or merchandise. Peddler, transient or mobile merchant or vendor includes all retail, wholesale, and/or service providers when conducting business other than from an inspected building constructed and maintained in accordance with the South Florida Building Code and all applicable life safety codes.

Permanent place of business. Any building having a permanent street address and having a valid certificate of occupancy and occupational license.

(Ord. No. 339, § 1, 5-21-09)

Sec. 10-57. - Occupational license required.

Any individual, entity, or organization that engages or participates in, or conducts any activity as a peddler, transient or mobile merchant or vendor, as defined in this article, within the village, is required to and shall have an occupational license issued by the village.

(Ord. No. 339, § 2, 5-21-09)

Sec. 10-58. - Exemption for non-profit and religious organizations or activities.

The provisions of this article shall not apply to any non-profit and/or religious organizations provided that any non-profit and/or religious organization shall first notify the village clerk of their proposed activity and provide a written certification, including an appropriate notification of their non-profit status. Non-profit organizations and religious organizations shall not be subject to any licensing requirements under this article, nor shall they be required to pay any fee.

(Ord. No. 339, § 3, 5-21-09)

Sec. 10-59. - Failure to have an occupational license.

It shall be unlawful for any individual, entity, or organization, to engage or participate in, or conduct any activity which activity is or appears designed or intended, in whole or in part, to have as its objective to market, merchandise, sell, or in any manner promote or cause the sale of any good(s), ware(s), merchandise, or service through any door to door activity or solicitation without first having and displacing a valid occupational license issued by the village.

(Ord. No. 339, § 4, 5-21-09)

Sec. 10-60. - License application.

The application for an occupational license shall be made to the village clerk and shall include the following information:

- (1) The name, home and business address of the applicant, date of birth, social security number, the person by whom applicant is employed, if any; name and address of the owner, if other than the applicant, of the vending business, stand or motor vehicle to be used in the operation of the vending business;
- (2) A description of the food or merchandise to be sold; the lines or kinds of business for which the applicant shall solicit orders or attempt to sell goods, wares or merchandise;
- (3) The city or town where the applicant last engaged in or transacted any business; all the cities, towns and places where the applicant has lived or engaged in business for the past five (5) years;
- (4) Whether the applicant has ever been arrested and/or convicted of any criminal offense;
- (5) A description and photograph of any stand or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business;
- (6) Three (3) two-inch by two-inch prints of a full-face photograph, taken not more than thirty (30) days prior to the application date, of any person who will sell, or offer for sale, any food or merchandise within the village; and
- (7) The application shall state the names and addresses of three (3) reliable local witnesses as to the character, health, and identity of the applicant.
- (8) Such application shall be sworn to by the applicant and filed with the Village of Virginia Gardens.
- (9) Simultaneously with the submission of the completed application, all applicants shall submit a non-refundable application fee in the amount of fifty dollars (\$50.00).

(Ord. No. 339, § 5, 5-21-09)

Sec. 10-61. - Eligibility for occupational license.

Any individual, entity, or organization who is a registered sex offender or sexual predator, or any individual who is on active probation for any felony offense shall not be eligible for a license under this article.

(Ord. No. 339, § 6, 5-21-09)

Sec. 10-62. - Occupational license fee.

The annual occupational license fee shall be one hundred fifty dollars (US \$150.00). In the event of any individual who desires to engage in any activity within the purview of this article, only occasionally, the individual may apply for a one-time permit, which shall not exceed a period of three (3) days, at a nominal fee of twelve dollars (US \$12.00); provided, however, that no individual, entity, or organization shall obtain more than three (3) occasional permit[s] during any consecutive twelve-month period.

(Ord. No. 339, § 7, 5-21-09)

Sec. 10-63. - Investigation of application for occupational license.

Upon receipt of the completed application, the village clerk will forward the application to the chief of police who shall cause a criminal records check to be conducted on the applicant to determine that the applicant is eligible for issuance of a license under this article. In the event that the chief of police determines that the individual is ineligible, pursuant to section 10-60 of this article, the village clerk shall provide written notice to the individual, who shall have thirty (30) days to respond to the denial, by providing a specific factual rebuttal or statement explaining any inaccuracy in any public records or criminal background found through the investigation process.

(Ord. No. 339, § 8, 5-21-09)

Sec. 10-64. - Revocation of occupational license.

All occupational licenses issued under this article shall be nontransferable, and may be revoked at any time for cause shown.

(Ord. No. 339, § 9, 5-21-09)

Sec. 10-65. - Hours of operation and places.

Any peddler, transient or mobile merchant or vendor, who obtains an occupational license, and who otherwise complies with all other applicable laws or ordinances, shall engage in solicitation and/or other marketing activities only after 7:30 a.m. and no later than 9:00 p.m.

(Ord. No. 339, § 10, 5-21-09)

Sec. 10-66. - Entering without invitation; refusal to leave when asked by occupant.

It shall be unlawful for any peddler, transient or mobile merchant or vendor to open a door of any private dwelling, apartment house, or other place of abode, or enter into such a place, without having been invited to do so by the occupant, or having entered by invitation, to refuse to leave when requested to do so.

(Ord. No. 339, § 11, 5-21-09)

Sec. 10-67. - Stopping or parking to do business in one location.

- (a) A peddler, transient or mobile merchant or vendor, whether operating as a pedestrian or from a fully mobile truck, van, cart, bicycle, or other vehicle, is prohibited from stopping and/or parking or doing business at any one (1) location, except when actually involved in the completion of a sales transaction with a member of the public and then for no more than ten (10) minutes.

- (b) It shall be unlawful for any peddler, transient or mobile merchant or vendor, to carry any business at a stationary location in the public streets, alleys, parkways, parks or other publicly owned properties in the village, or to carry on such trade or business either at a stationary location or moving while on a swale area, public property utilized for off-street parking or parking lot, public easement utilized by village vehicles, or on public sidewalk. No such operation so enumerated shall be permitted to be conducted in any congested area where the aforesaid activities might impede traffic or inconvenience the public.

(Ord. No. 339, § 12, 5-21-09)

Sec. 10-68. - Soliciting by loud or unusual noises.

It shall be unlawful for any person to solicit or promote the sales of goods, wares, merchandise, real estate, or any other thing or service whatsoever upon the streets, avenues, parks, parkways, or public places in the village, in a manner which shall disturb the peace of others utilizing any kind of loud and unusual noises or sound amplification instruments or equipment, including bullhorns.

(Ord. No. 339, § 13, 5-21-09)

Sec. 10-69. - Prohibition against selling or dispensing certain foods.

- (a) Peddlers, transient or mobile merchants or vendors shall not sell or offer to sell any raw, unprepared, or uncooked meat, poultry, fish or seafood within village limits.
- (b) Peddlers, transient or mobile merchants or vendors shall not sell or offer to sell any raw, unprepared, or uncooked meat, poultry, fish or seafood which is either prepared on site or at the time of sale, or which is not previously processed and packaged by a facility, which is duly licensed and inspected by the appropriate governmental agency or entity governing or regulating the preparation and sale of food.

(Ord. No. 339, § 14, 5-21-09)

Sec. 10-70. - Selling or dispensing of fruits, vegetables, and other foods.

Any individual, entity, or organization that sells or offers to sell any fruit, vegetable, or other foods shall have and possess, in addition to an occupational license issued by the village, the appropriate licenses, permits, and/or certificates and shall otherwise fully comply with all rules and regulations established by an state or county governmental agency or entity governing or regulating the handling, preparation, and sale of foods.

(Ord. No. 339, § 15, 5-21-09)

Sec. 10-71. - Placing supplies, merchandise or equipment on public or private property.

All supplies, materials, merchandise, and/or equipment used by a peddler, transient or mobile merchant or vendor or within the mobile unit from which the peddler, transient or mobile merchant or vendor is conducting business shall not be permitted to be placed upon either public or private property for the purpose of facilitating the offering of merchandise and/or services to the public.

(Ord. No. 339, § 16, 5-21-09)

Sec. 10-72. - State sales tax identification number and display of city identification required.

All applicants for issuance and/or renewal of peddler, transient or mobile merchant or vendor licenses shall provide to the village licensing section a current state sales tax identification number in order to ensure that revenue is properly rebated to the village, where applicable, through the collection of state sales taxes. A licensed peddler, transient or mobile merchant or vendor shall display a village identification card with an occupational license number and photograph, on their person, when conducting business at all times.

(Ord. No. 339, § 17, 5-21-09)

Secs. 10-73—10-75. - Reserved.

ARTICLE IV. - SECONDHAND JEWELRY, METALS AND COINS^[4]

Footnotes:

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Editor's note— Ord. No. 338, §§ 1—11, adopted May 15, 2008, did not specifically amend the Code; hence, inclusion herein as superseding former Art. IV, §§ 10-76—10-84, was at the editor's discretion. The former Art. IV pertained to similar subject matter and derived from Code 1967, §§ 6A-1—6A-9.

State Law reference— Precious metals, F.S. ch. 538.

Sec. 10-76. - Definition.

For the purposes of this article, "dealers in secondhand jewelry, metals and coins" means a person engaging in, conducting, managing or carrying on the business of buying, selling or otherwise dealing in secondhand jewelry, precious and semiprecious stones, metals containing gold or silver and imitations thereof, watches, rings, bracelets, coins and other similar goods, wares and merchandise. This definition includes pawn shops conducting, managing or carrying on the above-described business.

(Ord. No. 338, § 1, 5-15-08)

Sec. 10-77. - Permit required; fee.

No person shall engage in, manage, conduct or carry on the business of a dealer in secondhand jewelry, metals and coins without obtaining a written permit from the police department and the payment of a fee of five hundred dollars (\$500.00). The permit shall contain the name and home address of the permittee and the address of the business being permitted and shall be signed by the police chief or his designee.

(Ord. No. 338, § 2, 5-15-08)

Sec. 10-78. - License requirements.

The following requirements must be satisfied before the village clerk can issue a license:

- (1) The operator of the business shall provide a copy of the license issued by the State of Florida.
- (2) The operator shall complete and submit an application to the police department, in form approved by the police department for each individual who will be operate, manage, or otherwise be employed at the shop.

- (3) The police department shall conduct a background check of all individuals who will participate in the operation of the business, or who are otherwise employed to determine that they are of good moral character and issue an individual permit at a cost of fifty dollars (\$50.00).
- (4) Each individual who is employed at, or by the business who participates in the operation of the business must have undergone a background check and must have an individual permit.
- (5) The individual permit shall be renewed yearly contemporaneously with the occupational permit for the business.
- (6) No individual who has been convicted of a felony within ten (10) years prior to the date of the application, or who has had adjudication withheld for any offense involving honesty, fraud, and/or theft, shall be eligible for or obtain an individual license or be employed in such business.

(Ord. No. 338, § 3, 5-15-08)

Sec. 10-79. - Authorization.

The chief of police is authorized to delineate the terms and conditions under which an occupational license is issued for operating the business.

(Ord. No. 338, § 4, 5-15-08)

Sec. 10-80. - Change of location; fee.

A change of location may be endorsed on a permit by the police department upon written application by the permittee accompanied by a change of location fee of ten dollars (\$10.00).

(Ord. No. 338, § 5, 5-15-08)

Sec. 10-81. - Dealer record of purchases.

Every dealer subject to the provisions of this article shall keep a record of purchases, which record shall contain:

- (1) The name and address of each person from whom an item as described in section 10-76 is purchased, including the signature of the person selling the same, together with such person's driver's license number or other identifying number and the person's right thumb print;
- (2) A general description of the item purchased;
- (3) The estimated quantity of the item purchased; and
- (4) The date of the purchase and the purchase price.

The records shall at all times be subject to inspection by all law-enforcement officers and shall be preserved for a period of three (3) years after purchase. A copy of the record of each item purchased shall be submitted to the police department within twenty-four (24) hours after the purchase.

(Ord. No. 338, § 6, 5-15-08)

Sec. 10-82. - Holding period.

Property acquired in the course of a permittee's business shall be held for a fifteen-day period. This holding period and the thumb print requirement shall apply in all instances except the purchase and sale

of gold and silver coins and gold and silver bullion, when the purchase and sale is conducted by a person whose primary business is dealing in gold or silver coins and gold and silver bullion.

(Ord. No. 338, § 7, 5-15-08)

Sec. 10-83. - Items subject to hold-order by police.

If a police officer has reasonable grounds to believe that an item acquired by a permittee under this article in the course of his business is the subject of a criminal investigation, such police officer may place a hold-order upon such property for a period of ninety (90) days and, upon release of such property, may require the permittee to keep a record of the disposition of such property. It shall be unlawful for any person to dispose of any property contrary to any hold-order issued by a police officer.

(Ord. No. 338, § 8, 5-15-08)

Sec. 10-84. - Exceptions.

The provisions of this article shall not apply to transactions by and between dealers where the seller before the sale to another dealer has complied with all of the other provisions of this article.

(Ord. No. 338, § 9, 5-15-08)

Sec. 10-85. - Dealer holding requirements.

No permittee shall clean, alter, repair or otherwise change the appearance, melt, destroy, sell, export or otherwise dispose of any item described in section 10-76 obtained in the course of this business until the fifteen-day period described in section 10-82 or the ninety-day period described in section 10-83 has expired.

(Ord. No. 338, § 10, 5-15-08)

Sec. 10-86. - Additional requirements.

The requirements of this article are in addition to any other requirements of this Code, such as but not limited to zoning and occupational license requirements.

(Ord. No. 338, § 11, 5-15-08)

Secs. 10-87—10-100. - Reserved.

ARTICLE V. - SHOOTING RANGES

Sec. 10-101. - Registration by owners, etc.

Owners, lessees, managers and operators of ranges for the discharging of firearms shall register with the village clerk, setting forth their names, addresses and the companies that they own, lease from or are employed by.

(Code 1967, § 15A-1)

Sec. 10-102. - Permit required; display; certificate of qualifications; fee.

For each such range for the discharging of firearms there shall be obtained by any of the above a permit from the village. This permit shall be displayed in a conspicuous place near such range. As a requirement for obtaining such permit, the party applying for such permit shall file with the clerk of the village a certificate from a professional engineer setting forth that he is qualified to render conclusions and opinions concerning the subject matter of this article and that the range for which the permit is sought is safe and suitable for the purpose intended, in the discharging of firearms. In addition, the applicant shall deposit with the clerk the prescribed fee as set forth in section 10-103 and comply with all sections of this article.

(Code 1967, § 15A-2)

Sec. 10-103. - Permit renewal; cancellation; amount of fee.

The permit obtained hereunder shall be renewable annually and may be cancelled at any time for good cause. The annual permit fee shall be seventy-five dollars (\$75.00).

(Code 1967, § 15A-3)

Sec. 10-104. - Inspections.

Owners, lessees, managers and operators of the aforesaid ranges shall permit the village engineer or his designated representative the right to inspect such range upon reasonable notice.

(Code 1967, § 15A-4)

Sec. 10-105. - Inspections by engineer; frequency of inspections; filing of certificate of results.

Such ranges shall be inspected at least semiannually by a professional engineer qualified to make such inspections, and a certificate stating the result of such inspection shall be filed with the village clerk.

(Code 1967, § 15A-5)

Sec. 10-106. - Failure to comply.

In the event an owner, lessee, manager or operator of a range for the discharge of firearms fails to comply with the provisions of this article then in addition to the village having the right to close such range, each of such persons in violation shall be subject to the penalty set out in section 1-16.

(Code 1967, § 15A-6)

Sec. 10-107. - Indemnification of village.

This article does not, in anyway, constitute an affirmation by the village to obligate itself to any responsibility for the maintenance, inspection or operation of such ranges. Any applicant for a permit to operate a range for the discharging of firearms agrees to indemnify the village for any liability it incurs whatsoever as a result of the operation of any such range, if such liability occurs through no fault of the village.

(Code 1967, § 15A-7)

Secs. 10-108—10-125. - Reserved.

ARTICLE VI. - VEHICLES FOR HIRE

Sec. 10-126. - License required.

No person shall use, drive or operate, or cause or permit any other person to use, drive or operate, any motor vehicle as a sight-seeing car, taxicab or a for-hire car within the village, unless there shall have been previously obtained a license as required in this article authorizing and providing for such use or operation.

(Code 1967, § 18-1)

Sec. 10-127. - Application.

Every applicant for a license under this article shall make application to the village clerk, on a form prescribed by the village clerk, and shall pay a fee of twenty-five dollars (\$25.00) for every cab stand operated in the village. For the purposes of this article, a "cab stand" is defined as one (1) cab, taxi or motor vehicle for hire with its base of operations from some point in the village.

(Code 1967, § 18-2)

Sec. 10-128. - Indemnity bond or insurance policy required.

Every applicant for a license under this article shall furnish to the village clerk either an indemnity bond or a public liability insurance policy, whereby the company issuing such indemnity bond or liability insurance policy shall obligate itself to notify the village clerk, in writing, at least thirty (30) days before such bond or policy is altered, modified or cancelled. Such bond or insurance policy shall be in a penal sum of not less than ten thousand dollars (\$10,000.00) for injury to any one (1) person, twenty thousand dollars (\$20,000.00) for injuries to more than one (1) person in the same accident and ten thousand dollars (\$10,000.00) for property damages resulting from any one (1) accident. Such indemnity bond or insurance policy shall be issued by a company authorized to do business in the state, and shall be approved by the village clerk.

(Code 1967, § 18-5)

Sec. 10-129. - Public hearing; issuance of license.

Upon the filing of an application for a license under this article and the payment of the fee therefor to the village clerk, and the delivery of the required bond or insurance policy, the village clerk shall, upon receipt of the same, fix a time for a hearing on such application before the village council, which shall be not less than five (5) or more than sixty (60) days subsequent to the date upon which such application was filed. Notice of such hearing shall be given to the applicant and to any other similarly licensed businesses in the village, at least five (5) days prior to the date set for a hearing. At the time specified in such notice, a public hearing upon the application shall be held before the village council. At or after such hearing the village council may direct the village clerk to issue a license as applied for, or upon such terms and conditions as in its judgment the public interest and necessity may require.

(Code 1967, § 18-3)

Sec. 10-130. - Renewal of license; revocation.

Every license issued pursuant to this article shall be subject to revocation at any time by the village council. Such license shall be renewed and an additional twenty-five-dollar fee paid at the end of a year from the date of the issuance thereof; except, that after the village council has approved the issuance of such license, further public hearings upon renewals shall not be necessary, but such renewal shall be issued upon the approval of the village clerk of the renewal application.

(Code 1967, § 18-4)

Secs. 10-131—10-150. - Reserved.

ARTICLE VII. - ADULT ENTERTAINMENT CODE

DIVISION 1. - GENERALLY

Sec. 10-151. - Title.

This article shall be known and may be cited as the "Adult Entertainment Code."

(Ord. No. 315, § 1-1, 9-18-02)

Sec. 10-152. - Authority.

The adult entertainment code is enacted under the home rule power and the police power of the Village of Virginia Gardens, Florida, in the interest of the public health, safety, morals, peace, safety, and general welfare of the citizens and inhabitants of the village, and under the authority of the village to regulate the sale and consumption of alcoholic beverages under the Twenty-First Amendment to the Constitution of the United States.

(Ord. No. 315, § 1-2, 9-18-02)

Sec. 10-53. - Scope.

This article shall be effective throughout the Village of Virginia Gardens, Florida, and shall apply to any business establishment that engages or conducts any kind or amount of adult entertainment, or related activity.

(Ord. No. 315, § 1-3, 9-18-02)

Sec. 10-154. - Construction.

- (a) The adult entertainment code shall be liberally construed to accomplish its purpose of licensing and regulating sexually oriented businesses and adult entertainment establishments and related activities in order to eliminate or reduce the adverse effects of such businesses and related activities.
- (b) Unless otherwise indicated, all provisions of this adult entertainment code shall apply equally to all persons, regardless of sex. Masculine pronouns, such as "he," "his," and "him," as employed in this adult entertainment code, shall be construed to apply to feminine pronouns and neutral pronouns, unless the context suggests otherwise. Words used in the singular number shall include plural number, unless the context suggests otherwise.

(Ord. No. 315, § 1-4, 9-18-02)

Sec. 10-155. - Obscenity/indecent exposure unlawful.

As a matter of state and federal law, obscenity is unlawful in the village. Likewise, state law prohibits indecent exposure. Nothing in this adult entertainment code shall be construed: to allow or permit the possession, distribution and transportation of any obscene materials; to authorize the exposing of persons under eighteen (18) years of age to any motion pictures, exhibitions, shows, representations and presentations of specified sexual activities or persons displaying or exhibiting specified anatomical areas; or the indecent exposure of a person as prohibited by state laws.

(Ord. No. 315, § 1-5, 9-18-02)

Sec. 10-156. - Intent and purpose.

The intent and purpose of the village council in adopting this adult entertainment code is to establish reasonable and uniform regulations that will eliminate or reduce the adverse effects posed by adult entertainment businesses unless regulated, reduce the adverse effects these businesses have had and may have upon the village, and to protect the health, safety, morals, and welfare of the citizens and inhabitants of the village.

(Ord. No. 315, § 1-6, 9-18-02)

Sec. 10-157. - Finding of fact.

Based on evidence and reports presented or made available to the village council, and the findings made or incorporated in studies accomplished in other communities, including, but not limited to, New York, New York; Senate Bill Number 232, as passed by the Kansas State Legislature; Phoenix and Tucson, Arizona; St. Paul and Minneapolis, Minnesota; Houston and Austin, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove and Los Angeles, California; Macon-Bibb County, Georgia; Palm Beach County, Orange County, and Manatee County, Florida; the report of the United States Attorney General's Commission on Pornography (1986), Jacksonville, Florida; Detroit, Michigan; and "A Summary of a National Survey of Real Estate Appraisers Regarding the Effect of Adult Bookstores on Property Values," conducted by the Division of Planning, Department of Metropolitan Development, Indianapolis, January 1984, the village council hereby finds:

- (1) Establishments exist or may exist within the village where books, magazines, motion pictures, prints, photographs, periodicals, records, novelties, and/or devices which depict, illustrate, describe, or relate to specified sexual activities are possessed, displayed, exhibited, distributed, and/or sold.
- (2) Establishments exist or may exist within the village:
 - a. Where the superficial tissues (skin) of one (1) person are manipulated, rubbed, stroked, kneaded, and/or tapped by a second person, accompanied by the display or exposure of specified anatomical areas;
 - b. Where dancers, entertainers, performers, or other individuals, who, for any form of commercial gain, compensation, tips, or gratuities, perform or are presented while displaying or exposing specified anatomical areas;
 - c. Where straddled, friction, or lap dancing occurs; or
 - d. Where other sexually oriented entertainment occurs.
- (3) The activities described in subsections (1) and (2) occur at establishments for the purpose of generating income, revenue, or making a profit, and, as such, are subject to regulation by the village, in the interest of the health, safety, morals, and general welfare of the citizens and inhabitants of the village.

- (4) When the activities described in subsections (1) and (2) are present in establishments within the village, other activities which are illegal, immoral, or unhealthful tend to accompany them, concentrate around them, and be fostered and aggravated by them. Such other activities include, but are not limited to, prostitution, pandering, solicitation for prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution, and transportation of obscene materials, sale or possession of controlled substances, disorderly conduct, public intoxication, and violent crimes against persons and property.
- (5) When the activities described in subsections (1) and (2) are present in establishments within the village, they tend to attract an undesirable number of transients, blight neighborhoods, adversely affect neighboring businesses, adversely affect neighboring residential areas, lower property values, promote crime, particularly the kinds detailed in subsection (4), and ultimately lead residents and businesses to move to other locations.
- (6) The establishments in which activities described in subsections (1) and (2) occur are usually constructed or operated, in part or in whole, without full compliance with relevant rules, codes, and regulations, and are usually maintained in a manner reflecting disregard for the health, safety, and welfare of the occupants.
- (7) Sanitary conditions in some businesses providing sexually oriented entertainment or adult entertainment establishments tend to be unhealthy, in part because of the activities conducted in these establishments and the failure of the owners and operators of the facilities to self-regulate those activities and maintain the facilities.
- (8) The activities described in subsections (1) and (2) frequently occur in establishments concurrent with the sale and consumption of alcoholic beverages.
- (9) The concurrence of the sale and consumption of alcoholic beverages with the activities described in subsections (1) and (2) leads to an increase in criminal activity, moral degradation, and disturbances of the peace and order of the village.
- (10) The concurrence of the sale and consumption of alcoholic beverages with the activities described in subsections (1) and (2) is hazardous to the health and safety of those persons in attendance, depreciates the value of adjoining property, unreasonably interferes with the peaceful use and enjoyment of neighboring or adjoining business and residential properties, harms the economic welfare of the village, and adversely affects the public's interest in the quality of life, tone of commerce, and community environment in the village.
- (11) In order to preserve and safeguard the health, safety, morals, and general welfare of the citizens and inhabitants of the village, it is necessary and advisable for the village, to regulate the sale and consumption of alcoholic beverages at establishments where the activities described in subsections (1) and (2) occur.
- (12) Employees of establishments at which the activities described in subsections (1) and (2) occur tend to engage in a higher incidence of certain types of criminal behavior than do employees of other type of establishments.
- (13) Straddle, friction, and lap dancing does not contain any element of communication, and is therefore conduct rather than expression.
- (14) Straddle, friction, or lap dancing in establishments poses a threat to the health of the participants and promotes the spread of communicable and social diseases.
- (15) Physical contact within establishments at which the activities described in subsections (1) and (2) occur between employees engaging in sexually oriented entertainment or exhibiting specified anatomical areas and customers poses a threat to the health of both and promotes the spread of communicable and social diseases.
- (16) At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses and adult entertainment establishments, including, but not limited to syphilis, gonorrhea, human immunodeficiency virus infection (HIV/AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections, and shigella infections.

- (17) In order to preserve and safeguard the health, safety, morals, and general welfare of the citizens and inhabitants of the village, it is necessary and advisable for the village, to regulate the conduct of owners, managers, operators, agents, employees, entertainers, performers, and customers at establishments where the activities described in subsections (1) and (2) occur.
- (18) Establishments at which the activities described in subsections (1) and (2) occur and there is sale and consumption of alcoholic beverages tend to foster or aggravate other illegal, immoral, or unhealthful activities, as delineated in subparagraph (4) of this section. This unreasonably taxes the public safety resources of the village, which tends to compromise the safety and welfare of the citizens and inhabitants of the village.
- (19) The potential dangers to the health, safety, morals and general welfare of the people of the village posed by permitting an establishment at which the activities described in subsections (1) and (2) occur to operate without first obtaining a license under this code are so great as to require the license of such establishments prior to their being permitted to operate.
- (20) Prohibiting establishments at which the activities described in subsections (1) and (2) occur from operating within close proximity of educational institutions, religious institutions, areas zoned for residential use, and parks, at which children are customarily found, will serve to protect children from the adverse effects of the activities that accompany such establishments.
- (21) Personal advertising within close proximity of public thoroughfares poses a traffic hazard and a threat to the safety of people using those thoroughfares.
- (22) The findings noted in subsections (1) through (21) above raise substantial governmental concerns.
- (23) Sexually oriented businesses, businesses which provide sexually oriented entertainment, and adult entertainment establishments, have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.

(Ord. No. 315, § 1-7, 9-18-02)

Sec. 10-158. - Definitions.

In the adult entertainment code, unless the context suggests otherwise:

- (1) *Adult bookstore/video store*: An establishment which displays, distributes, barter, rents, or sells, adult printed or graphic material, slides, pictures, films, motion pictures, videotapes, compact discs, computer digital graphic recordings, other visual representations, audio recordings, or other similar materials, which activity requires the exclusion of minors pursuant to F.S. chapter 847, unless such activity comprises no more than ten (10) percent of the gross usable floor area of the establishment.

Any establishments in which any one or more of the following elements is present or occurs shall be presumed to be an adult bookstore:

- a. Individual items of adult material offered for sale and/or rental comprise more than fifteen (15) percent of the unused individual items publicly displayed at the establishment as stock in trade in the categories described in this section.
- b. The gross income each month from sale and/or rental of adult material comprises more than ten (10) percent of that month's gross income from the sale and/or rental of goods and materials at the establishment.
- c. The floor area used to display adult material comprises more than ten (10) percent of the gross usable floor area of the establishment;
- d. The establishment uses any of the following terms to advertise or promote the activities occurring at the establishment: "XXX," "XX," "X," whether or not interspersed with other

letters, figures, or characters; "erotic" or deviations of that word; "adult entertainment," "adult books," "adult videos," or similar phrases; "sexually explicit," "sexual acts," or similar phrases; "nude," "nudies," or similar phrases, which letters, words, or phrases a reasonable person would believe to be, or associate with the promotion of the sale and/or rental of adult materials.

- (2) *Adult booth*: A small enclosure inside an adult entertainment establishment accessible to any person, regardless of whether a fee is charged for access. The term "adult booth" includes, but is not limited to, a "peep show" booth or arcade, or other booth used to view "adult material." The term "adult booth" does not include a foyer through which any person can enter or exit the establishment, or a restroom.
- (3) *Adult dancing establishment*: An establishment where workers or employees display or expose specified anatomical areas to others, regardless of whether the workers or employees actually engage in any performance or dancing.
- (4) *Adult entertainment*: The display or exposure of any specified anatomical area by a worker to a customer whether the worker actually engages in performing, modeling, or dancing or where the worker(s) wear or display to a customer any covering, tape, pastie, or other device which simulates or otherwise gives the appearance of the display or exposure of any specified anatomical areas regardless of whether the worker actually engages in any performance, modeling, or dancing.
- (5) *Adult entertainment establishment*: An adult theater, an adult bookstore, or an adult dancing establishment operated for commercial or pecuniary gain of any kind, or which activity requires the exclusion of minors pursuant to F.S. chapter 847. ("Operated for commercial or pecuniary gain" shall not depend upon actual profit or loss. Also, operated for commercial or pecuniary gain shall be presumed where the establishment has an occupational license.) An establishment with an adult entertainment license is presumed to be an adult entertainment establishment.
- (6) *Adult material*: Any one or more of the following regardless of whether it is new or used:
 - a. Books, magazines, periodicals, or other printed matter, or photographs, films motion pictures, video cassettes, slides, or other visual representations, or recordings, or other audio matter depicting, illustrating, describing or relating to specified sexual activities or specified anatomical areas; or
 - b. Instruments, novelties, devices or paraphernalia which are designed for use in connection with specified sexual activities.
- (6) *Adult motel*: Any motel, hotel, boarding house, rooming house, or other place of temporary lodging or accommodation which include the word "adult" in any name it uses or otherwise advertises the presentation of films, motion pictures, video cassettes, slides or other photographic reproductions, which have as their primary or dominant theme matters depicting, illustrating, or relating to specified sexual activities or specified anatomical areas. The term "adult motel" is included within the definition of "adult theater."
- (7) *Adult theater or adult motion picture theater*: An establishment which, except as set forth in the final sentence of this paragraph, consists of an enclosed building, or a portion or part of an enclosed building, or an open-air area used for viewing by persons or films, motion pictures, video cassettes, slides, or other photographic reproductions which have as their primary or dominant theme matters depicting, illustrating or relating to specified sexual activities or special anatomical areas. "Adult motels" are included within the definition of "adult theater." An establishment which has "adult booths" is considered to be an "adult theater."
- (8) *Alcoholic beverages* means a beverage containing more than one (1) percent of alcohol by weight.
 - a. It shall be prima-facie evidence that a beverage is an alcoholic beverage if there is proof that the beverage in question was or is known as whiskey, moonshine whiskey, brandy,

beer, malt liquor, or by other similar name or names, or was contained in a bottle or can labeled as any of the above names or a name similar thereto, and the bottle or can bears the manufacturer's insignia, name, or trademark.

- b. Any person who, by experience in the handling of alcoholic beverages, or who by taste, smell, or drinking of such alcoholic beverages has knowledge of the alcoholic nature thereof, may testify as to his opinion about whether such beverage is an alcoholic beverage.
- (9) *Code*: The adult entertainment code or other sections of the Village of Virginia Gardens Code of Ordinances, depending upon context.
 - (10) *Conviction*: A determination of guilt resulting from plea or trial, or an administrative finding of guilt or consent order or decree, regardless of whether adjudication was withheld or whether imposition of sentence was suspended.
 - (11) *Department*: The building department, fire department, health department, police department, community development department, code enforcement department, zoning department, or village clerk including the respective director, employees, and agents thereof.
 - (12) *Educational institution*: A premises, location, or site upon which there is an institution of learning for minors whether public or private, which conducts regular classes and/or courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Secondary Schools, of the Florida Council of Independent Schools. The term "educational institution" includes a premises or site upon which there is a nursery school, kindergarten, elementary school, junior high school, senior high school, or any special institution of learning. However, the term "educational institution" does not include a premises or site upon which there is a vocational institution or an institution of higher education, including a community college, junior college, four-year college or university.
 - (13) *Employee*: A person who renders any service, works, or performs in an adult entertainment establishment, irrespective of whether said person is paid a salary or wage by the owner or manager of the premises or receives any tips or gratuities.
 - (14) *Establishment*: A site or premises, or portion thereof, upon which certain activities or operations are being conducted for commercial or pecuniary gain. ("Operated for commercial or pecuniary gains shall not depend upon actual profit or loss. Also, operated for commercial or pecuniary gains shall be presumed where the establishment has an occupational license.")
 - (15) *Inspector*: A respective employee of the health department, building department, zoning department, police department, community development department, code enforcement department, or fire department who inspects premises licensed under this code and takes or requires the actions authorized by this code in case of violations being found on licensed premises, and who also inspects premises seeking to be licensed under this code and takes or requires corrections of unsatisfactory conditions found on the premises.
 - (16) *Licensee*: Any person whose application for an adult entertainment establishment has been granted and who owns, operate, manages, or controls the establishment.
 - (17) *Licensed health care provider*: A dully licensed medical doctor, physician, or chiropractor.
 - (18) *Operator*: Any person who engages in or performs any activity which is necessary to or which facilitates the operation of an adult entertainment establishment, including, but not limited to, the licensee, manager, owner, doorman, bartender, disc jockey, sales clerk, ticker taker, movie projectionist, or supervisor.
 - (19) *Park*: A tract of land within a municipality or unincorporated area which is kept for ornament and/or recreation and which is maintained as public property.

- (20) *Person*: Includes, but is not limited to, an individual, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other or any other similar entity.
- (21) *Private performance*: The display or exposure of any specified anatomical area by an employee at an adult entertainment establishment to a person other than another employee while the person is in an area not accessible during such display to all other persons in the establishment, or while the person is in an area in which the person is totally or partially screened or partitioned during such display from the view of all persons outside the area.
- (22) *Religious institution*: A premises or site which is used primarily or exclusively for religious worship and relate religious activities.
- (23) *Specified anatomical areas*:
- a. Less than completely and opaquely covered:
 1. Human genitals or pubic region; or
 2. Cleavage of the human buttocks; or
 3. That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple). This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other wearing apparel, provided the areola is not so exposed.
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (24) *Specified criminal act*:
- a. A criminal violation of this code;
 - b. Any offense which is a felony under any provision of state or federal law;
 - c. An offense under F.S. ch. 794, (sexual battery);
 - d. An offense under F.S. ch. 796, (prostitution);
 - e. An offense under F.S. ch. 800, (lewdness; indecent exposure);
 - f. An offense under F.S. ch. 826, (bigamy; incest);
 - g. An offense under F.S. ch. 847, (obscene literature; profanity); or
 - h. An offense under an analogous statute of a state other than Florida, or under an analogous ordinance of another county or city.
- (25) *Specified sexual activities*:
- a. Human genitals in a state of sexual stimulation, arousal, or tumescence; or
 - b. Acts of human anilingus, bestiality, buggery, cunnilingus, coprophagy, coprophilia, fellation, flagellation, masochism, masturbation, necrophilia, pederasty, pedophilia, sadism, sadomasochism, sapphism, sexual intercourse, sodomy, uralagnia, or zoerasty; or
 - c. Fondling or other erotic touching of human genitals, pubic region, buttock, anus or female breast; or
 - d. Excretory functions as part of or in connection with any of the activities set forth in subsections (25)a through (25)c.
- (26) *Straddle dance also known as a friction dance, lap dance or "face dance."* The use by an employee, of any part of his or her body to touch the genital or pubic area of a person while at the establishment, or the touching of the genital or pubic area of any employee with a person

while at the establishment. It shall be a "straddle dance" regardless of whether the "touch" or "touching" occurs while the employee is displaying or exposing any specified anatomical area. It shall also be a "straddle dance" regardless of whether the "touch" or "touching" is direct or through a medium.

(27) *Village council:* The Village of Virginia Gardens, Florida.

(Ord. No. 315, § 1-9, 9-18-02)

Sec. 10-159. - Regulation of obscenity subject to state law.

It is not the intent of the village council to legislate with respect to matters of obscenity. These matters are regulated by state law.

(Ord. No. 315, § 1-10, 9-18-02)

Sec. 10-160. - Regulation of massage establishments.

It is not the intent of the village council to directly legislate with respect to matters of massage establishments. These matters are regulated by state agency, the Department of Business and Professional Regulation, Board of Massage, and by state law, F.S. ch. 480. However, the provisions of this adult entertainment code shall be supplemental to relevant state laws regulating massage establishments and any massage establishment that is other than medically therapeutic and operated in conjunction with, and supervised by a licensed health care provider shall be subject to the provisions of this adult entertainment code.

(Ord. No. 315, § 1-10, 9-18-02)

Sec. 10-161. - Public nudity.

It shall be unlawful for any person in any public place or in any business or commercial establishment, unless expressly permitted, within the corporate limits of the village to be found in a state of nudity or to expose or exhibit his sexual organs. This section, however, shall not be construed to prohibit the exposure of sexual organs in restrooms or in any other place provided or set aside for that purpose.

(Ord. No. 315, § 1-11, 9-18-02)

Sec. 10-162. - Severability.

If any portion of this code, or any application thereof is declared to be void, unconstitutional or invalid for any reason, such portion or provision, or the application thereof, shall be severable from this code. The remaining portions and provisions of this code, and all applications thereof shall remain in full force and effect. No void, unconstitutional or invalid portion or prescribed provision, or application thereof, was an inducement to the enactment of this code.

(Ord. No. 315, § 1-12, 9-18-02)

Secs. 10-162—10-180. - Reserved.

DIVISION 2. - LICENSING

Sec. 10-181. - Responsibility.

Ultimate responsibility for the administration of this code is vested in the mayor. The mayor or the mayor's designee is responsible for granting, denying, revoking, renewing, suspending, and canceling adult entertainment licenses for proposed or existing adult entertainment establishments. The mayor or the mayor's designee is responsible for verifying information contained in applications for adult entertainment licenses and for issuing all licenses. In addition, the mayor or the mayor's designee is responsible for reviewing permit applications with regard to employees of adult entertainment establishments. The mayor or the mayor's designee is responsible for the inspection of licensed premises and premises applying for a license in order to pass upon the construction and physical configuration of the premises involved. The mayor or the mayor's designee is responsible for the inspection of licensed premises and premises applying for a license to ascertain compliance with:

- (1) All building, life safety, and fire prevention rules, codes, regulations, statutes, ordinances, or resolutions in effect or applicable within the village;
- (2) All health and sanitary rules, codes, regulations, statutes, ordinances, or resolution in effect or applicable within the village;
- (3) All zoning regulations and all other applicable land use laws in effect or applicable within the village.

(Ord. No. 315, § 2-1, 9-18-02)

Sec. 10-182. - Power of administrative agencies.

When a provision of this code gives the mayor the authority or duty to act, the authority or duty vests in the mayor, who is empowered to delegate said authority or duty to any public officer, inspector, or employee, provided only said officer, inspector, or employee shall act in accordance with the administrative procedures of the agency of office concerned.

(Ord. No. 315, § 2-2, 9-18-02)

Sec. 10-183. - Adult entertainment license required; classifications.

- (a) *Requirement.* No adult entertainment establishment shall be permitted to operate without having been first granted and adult entertainment license under this code.
- (b) *Classifications.* Adult entertainment establishment licenses referred to in this code shall be classified as follows:
 - (1) Adult bookstore;
 - (2) Adult theater; and
 - (3) Adult dancing establishment.
- (c) *Single classification of license.* An adult entertainment license for a particular adult entertainment establishment shall be limited to one (1) classification of license.

(Ord. No. 315, § 2-3, 9-18-02)

Sec. 10-184. - Disqualification.

- (a) *Noncompliance of premises.* No license shall be issued if the mayor, as a result of investigations, determines that the proposed licensed premises does not meet all applicable building, zoning, health, sanitation, safety, and fire rules, codes, regulations, ordinances, resolutions, and statutes,

whether federal, state, county, or local, nor shall any license be issued on false information given in the application for license.

- (b) *Issuance of license where prior licenses has been suspended.* No license shall be issued to:
 - (1) Any individual, partnership, or corporation whose license under this code is suspended;
 - (2) Any partnership, a partner of which has a license presently suspended under this code;
 - (3) Any corporation, an officer, director, or principal stockholder of which presently has its license under this code suspended;
 - (4) Any individual who is or was at the time of suspension a partner in a partnership or an officer, director or principal stockholder or a corporation, whose license under this code is presently suspended; or
 - (5) Any individual, partnership or corporation who, within the five (5) years immediately preceding the date of presenting an application for licensure, has had any license for sale or service of alcoholic beverage suspended revoked.
- (c) *Prohibited by law or court order.* No license shall be issued when its issuance would violate a statute, ordinance, or law, or when an order from a court of law or from the code enforcement master of the village prohibits the applicant from obtaining an adult entertainment or occupational license in the village.
- (d) *Criminal conviction:* No license shall be issued to any individual who has a criminal conviction for any of the following:
 - (1) Any offense which is a felony under any provision of state or federal law;
 - (2) An offense under F.S. ch. 794 (sexual battery);
 - (3) An offense under F.S. ch. 796 (prostitution);
 - (4) An offense under F.S. ch. 800 (lewdness; indecent exposure);
 - (5) An offense under F.S. ch. 826 (bigamy; incest);
 - (6) An offense under F.S. ch. 847 (obscene literature; profanity); or
 - (7) An offense under an analogous statute of a state other than Florida, or under an analogous ordinance of another county or city.

This provision shall apply to preclude the issuance of a license to any business entity, including, but not limited to, any partnership, corporation, joint venture, or limited liability company, which has any individual who has a criminal conviction, as enumerated in this section, as a participant, member, partner, investor, shareholder, manager, director, officer, trustee, or financier.

(Ord. No. 315, § 2-4, 9-18-02)

Sec. 10-185. - Application required for adult entertainment licenses; contents; fees; rejection of incomplete applications; consent by applicant.

- (a) *Required.* Any person desiring to operate an adult entertainment establishment shall file with the mayor a sworn license application on a standard application form supplied by the village.
- (b) *Contents of application.* The completed application shall contain the following information and shall be accompanied by the following documents:
 - (1) If the applicant is:
 - a. An individual, the individual shall state the following: his full legal name, including any aliases, his residential address, his residential telephone number, his date of birth, his Social Security number, an address where all correspondence from the village should be

mailed, and submit satisfactory proof that he is eighteen (18) years of age by providing a copy of a valid driver's license, voter's registration card, or other state issued identification card, or a certified copy of a birth certificate; or

- b. A partnership or trust, the partnership or trust shall state the following: its complete name and address, the complete names, residential address, residential telephone numbers, date of birth, and Social Security numbers of all partners, whether the partnership is general or limited or trustees, the tax numbers of the entity; the name and residential address of at least one (1) authorized individual to accept service of process and notices, and, if in existence, a copy of the partnership or trust agreement; or
 - c. A corporation, the corporation shall state the following: its complete name and address, the date of its incorporation, provide a certified copy of the articles of incorporation, provide evidence that the corporation is in good standing, the corporate tax numbers, the complete names, residential addresses, and residential telephone numbers, date of birth, Social Security numbers, and capacity of all officers, directors, and shareholder/stockholders, and, if applicable, the name of the registered corporate agent and the address of the registered office for service of process.
 - d. Any other entity, the entity shall state its complete name, the date of formation, the tax numbers, the names, residential address, residential telephone numbers, the date of birth, Social Security number, and capacity of all individuals comprising the entity, and the name and residential address of at least one (1) authorized individual to accept service of process and notices.
- (2) The applicant shall provide a complete set of fingerprints for each individuals listed pursuant to subparagraph (b)(1).
 - (3) The applicant shall provide a recent color photograph in passport size for each individuals listed pursuant to subparagraph (b)(1).
 - (4) The applicant shall provide complete name, address, and telephone number of all individuals or entities having or retaining any kind of financial interest in the establishment, including, but not limited to, any individual or entity providing any form of loan, advance, credit line, or other financial assistance.
 - (5) If the applicant intends to conduct the establishment under a name other than that of the applicant, the applicant shall state the establishment's fictitious name, the county of registration, the date the name was first used, and provide evidence of registration under Florida Statutes.
 - (6) The applicant shall state whether the applicant or any of the other individuals listed pursuant to subparagraph (b)(1) has, within the five-year period immediately preceding the date of the application, been arrested for a specified criminal act, and, if so, the specified criminal act involved, the date and place of arrest, the name of the arresting agency, and the date and disposition of the case.
 - (7) The applicant shall state whether the applicant or any of the other individuals listed pursuant to subparagraph (b)(1) has been convicted of a specified criminal act, and, if so, the specified criminal act involved, the date and the place of conviction, the name of the court, and provide a certified copy of the court disposition.
 - (8) The applicant shall state whether the applicant or any of the other individuals listed pursuant to subparagraph (b)(1) has had a previous license under this code suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, and whether the applicant or any other individuals listed pursuant to subparagraph (b)(1) has been a partner in a partnership or an officer, director or shareholder/stockholder of a corporation whose license under this code has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoke, as well as the date of the suspension or revocation.

- (9) The applicant shall state whether the applicant or any of the other individuals listed pursuant to subparagraph (b)(1) has had a license to sell, serve, or dispense alcoholic beverages or a license to operate any adult entertainment establishment suspended or revoked, including the name and location of the establishment for which the license was suspended or revoked, as well as the date of the suspension or revocation, the governmental entity that suspended or revoked the license, and whether the applicant or any other individuals listed pursuant to subparagraph (b)(1) has been a partner in a partnership or an officer, director or principal stockholder of a corporation whose license to sell, serve, or dispense alcoholic beverages or to operate an adult entertainment establishment has previously been suspended or revoked, including the name and location of the establishment for which the license was suspended or revoke, the date of the suspension or revocation, and the governmental entity that suspended or revoked the license.
- (10) The applicant shall state whether the applicant or any other individuals listed pursuant to subparagraph (b)(1) holds any other licenses under this code and, if so, the named and locations of such other licensed establishments.
- (11) The applicant shall state whether the applicant or any other individuals listed pursuant to subparagraph (b)(1) currently holds, or has held during the ten (10) years preceding the date of the application any licenses issued by any governmental entity to sell, serve, or dispense alcoholic beverages or operate any adult entertainment establishment, if so, the names and locations of such other licensed establishments, the effective dates of the license, and the governmental entity that issued the license.
- (12) The applicant shall state the single classification of license for which the applicant is filing.
- (13) The applicant shall state the location of the propose establishment, including a legal description of the site (property) and a legal street address, the complete name, address, and telephone number of the real property owner of the site.
- (14) The applicant shall provide a true and correct copy of the deed conveying the property and/or lease or rental agreement for the site or location of the propose establishment, including a notarized statement of consent from the real property owner authorizing a sexually oriented business or adult entertainment establishment on the site.
- (15) The applicant shall state whether the real property owner has any equity or financial interest in the operation of the establishment. For purposes of this section, equity interest or financial interest shall include, but not be limited to, any kind of arrangement by which the real property owner or lessor receives any kind or remuneration or additional rental based upon the revenue or gross sales of the establishment.
- (16) The applicant shall provide the name, residential address, residential telephone number, date of birth, and Social Security number of the individual who will be responsible for managing or supervising the day to day operation of the establishment.
- (17) The applicant shall provide the names, addresses, telephone numbers, dates of birth, and Social Security numbers of all of the employees of the proposed establishment, including whether if known, or, if presently unknown, and a statement to that effect. As to each employee listed, the applicant shall state whether the employee has ever been arrested or convicted of a specified criminal offense, including the nature of the offense, and date of conviction. The applicant shall have the obligation to supplement the application with this information within twenty (20) days of commencing its operation, and shall further up date this information every four (4) months.
- (18) The applicant, including the individual signing the application, shall provide the applicant's complete mailing address, if the mailing address is a post office box, the applicant shall also provide a street address where were the village can direct correspondence, serve process, or serve notices. For purposes of this section, only a post office box at the United States Postal Service facility shall be allowed.

- (19) The applicant shall provide an affidavit containing the complete name and address of all individuals or entities to whom the applicant, including all of the individuals listed pursuant to subparagraph (b)(1), is in any manner financially obligated or to whom the applicant is in any manner obligated to make any payment. For purposes of this section, any obligation that is denoted as no recourse or which by its terms affords the applicant the opportunity to avoid repayment in any way shall be included in the disclosure. The disclosure under this section shall include the names and addresses of all individuals or entities to whom the applicant has been indebted or satisfied any financial obligation during the three (3) years preceding the date of the application.
- (20) The applicant shall provide true and correct copies of the last three (3) years tax returns for the applicant, including those of the individuals listed pursuant to subparagraph (b)(1).
- (21) The applicant shall state the hours of operation of the establishment.
- (22) The application shall contain the notarized signature of the applicant and of all of the other individuals listed pursuant to subparagraph (b)(1). The application shall contain a statement that the applicant and all those signing the application acknowledge the following: any material omission, false, or misleading statement shall result in denial and disqualification for a license under this code and may subject the applicants to criminal prosecution; by applying for a license under this code the applicants waive any privilege and consent to village public safety personnel (police) to enter and inspect and investigate all aspects of the operation of the establishment, and failure to permit village public safety personnel to enter and investigate or inspect the premises may result in the suspension or revocation of the license.
- (23) The applicant shall provide a detail site plan drawn to appropriate scale of the proposed establishment, including, but not limited to:
- a. All property lines, rights-of-way, and the location of buildings, parking areas and spaces, curb cuts, and driveways;
 - b. All windows, doors, entrances, and exits, and all fixed structural features such as walls, stages, partitions booths, admission booths, stands, counters, and similar structures;
 - c. All proposed improvements or enlargements to be made, which shall be indicated and calculated in terms of percentage of increase in floor size.
 - d. All proposed interior layout of all stages or areas dedicated to performers and the size and location of all tables, including the space between each table.
 - e. The plan shall include the location and placement of any and all removable or movable partitions, counters, and/or other structures.
- (c) *Application fee.* Each application shall be accompanied by a nonrefundable fee of one thousand five dollars (\$1,500.00).
- (d) *Rejection of incomplete application or application containing any omission.* In the event the mayor determines or learns at any time that the applicant has omitted material information from any application, provided any misleading information in connection with an application, has failed to provide full disclosure in any application, or otherwise not properly completed the application for a proposed establishment, the mayor shall promptly notify the applicant of such fact and shall automatically reject the application. Any applicant whose application is rejected because of material omission or because the application contains misleading information, shall, in addition to any other sanction provided by law, be disqualified from submitting another application or reapplying for a license for a period of two (2) years.
- (e) *Consent.* By applying for a license under this code, the applicant shall be deemed to have consented to the provisions of this code and to the exercise by the mayor and the departments of their respective responsibilities under this code, including contacting individuals and entities in connection with conducting the investigation required as a pre-condition to issuance of the license. This consent shall further include the consent by the applicant for village public safety personnel (police) to enter and inspect all parts of any premises operated by the licensee, and to enter and

remain and observe the operation of the establishment. Any applicant who refuses to allow village public safety personnel (police) to enter and inspect the premises or to enter and observe the operation of the establishment shall be subject to having the license to operate suspended or revoked.

(Ord. No. 315, § 2-5, 9-18-02)

Sec. 10-186. - Investigation of application.

Upon receipt of an application properly filed with the mayor and upon payment of the application fees, the mayor shall conduct an investigation to verify all of the information required by this code, and may conduct any further investigation and request such additional information from the applicant as the mayor deems reasonable to advance the governmental interest of this code. The mayor shall also inspect and investigate the proposed licensed premises for compliance with this code and other applicable laws and regulations relating to construction, safety, fire protection, sanitation, zoning and public health.

(Ord. No. 315, § 2-6, 9-18-02)

Sec. 10-187. - Issuance; denial; revocation.

- (a) *Approval and issuance.* Upon the completion of the investigation of an application, the mayor shall approve or disapprove the application. If approved, the mayor shall issue the license upon the reasons of the appropriate occupational license fee provided in sections 10-190 and 10-195.
- (b) *Disapproval and denial.* If the mayor recommends disapproval, he shall indicate the reason therefore upon the application, or in a separate writing, and shall deny the application. If the application is disapproved, the mayor shall notify the applicant of the disapproval and the reasons therefore. Notification shall be by certified mail and shall be sent to the address on the license application, which shall be considered the correct address.

Notwithstanding any other provision in this code, the mayor shall deny any application for a license in which the applicant has supplied any misleading, false, or untrue information, or any application in which the mayor determines the applicant has omitted material information.

The mayor shall approve or disapprove all applications within ninety (90) days from the date a completed application has been submitted. This time period may be extended for an additional period of forty-five (45) days in the event that the mayor is unable to complete the investigation and inspections contemplated by this code within the initial period. The mayor shall provide written notification of the extension to the applicant prior to or upon expiration of the initial ninety-day term. Upon the expiration of the one hundred and thirty-five (135) days the applicant shall be permitted to initiate operating the adult entertainment establishment for which a license was sought, unless the mayor notifies the applicant of a preliminary denial of the application. A preliminary denial shall specify the reasons for denial and shall be sent to the address on the license application, which shall be considered the correct address.

- (c) *Revocation.* Should a license be issued as a result of false information, misrepresentation of fact, or mistake of fact, it shall be revoked. If the license is revoked, the mayor shall notify the licensee of the revocation and the reasons therefore. Notification shall be by certified mail and shall be sent to the address on the license application, which shall be considered the correct address.
- (d) *Appeal.* Within fifteen (15) days after the mailing of either a notice of denial or preliminary denial of an application for a license or a notification of the revocation of a license, the applicant or licensee may take an appeal to the village council as provided in section 10-194. If the village council finds that the application should be approved, it shall so order and, upon payment of the appropriate license fee provided in sections 10-190 and 10-195, the mayor shall issue the license. If the village council finds the license should not have been revoked, it shall notify the mayor who shall reissue the license.

(Ord. No. 315, § 2-7, 9-18-02)

Sec. 10-188. - Limitation on license and licensed premises.

No more than one (1) license shall be issued and in effect for any single location within the village. Licensed premises may be owned by the licensee or may be leased by the licensee from a person not a licensee under this code; provided, that a licensee who is a tenant or lessee may not surrender his tenancy or lease to the owner or lessor if by so doing the said owner or lessor will take possession, control and operation of the licensed premises and the business licensed under this code, unless the license is transferred as provided in section 10-191, and further provided, that a licensee who is the owner of the licensed premises may not lease or otherwise give up possession, control and operation of the licensed premises and the business licensed under this code to any other individual, partnership or corporation, unless the license is transferred as provided in section 10-191.

(Ord. No. 315, § 2-8, 9-18-02)

Sec. 10-189. - Display of license: mutilation prohibited.

All licenses licensed under this code shall display their licenses in conspicuous places on their licensed premises, in clear, transparent cover or frame. The license shall be available for inspection at all times by the public. No person shall mutilate, cover, obstruct or remove a license so displayed.

(Ord. No. 315, § 2-9, 9-18-02)

Sec. 10-190. - Term of license; renewals.

- (a) *Term.* All licenses issued under this code, except new licenses, shall be annual licenses which shall be paid for on or before October 1 and shall expire on September 30 of the following year. A licensee beginning business after October 1 and before April 1 may obtain a new license upon application and approval therefore and the payment of the appropriate license fee and such license shall expire on the following September 30. The provisions of this subsection shall not affect the provisions of section 10-191.
- (b) *Renewals.* A licensee under this code shall be entitled to a renewal of his annual license from year to year, as a matter of course, on or before October 1 by presenting the license for the previous year or satisfactory evidence of its loss or destruction to the mayor and by paying the appropriate license fee to the village clerk. A license that is not renewed by October 1 of each year shall be considered delinquent and, in addition to the regular license fee, subject to a delinquency penalty of ten (10) percent of the license fee for the month of October and a additional penalty of five (5) percent of the license fee for each additional month, or fraction thereof, of delinquency until paid; provided, that the total delinquency penalty shall not exceed twenty-five (25) percent of the license fee. All licenses not renewed within one hundred twenty (120) days of September 30 will be revoked by the mayor, unless such license is involved in litigation.

(Ord. No. 315, § 2-10, 9-18-02)

Sec. 10-191. - Transfer of license.

When a licensee shall have made a bona fide sale of the business which he is licensed under this code to conduct, he may obtain a transfer of the license issued under this code to the purchase of said business, but only if, before the transfer, the application of the purchaser shall be approved by the mayor in accordance with the same procedure provided in sections 10-185, 10-186 and 10-187 in the case of issuance of new licenses. Before the issuance of any transfer of license, the transferee shall pay a

transfer fee of ten (10) percent of the appropriate annual license fee. Licenses issued under this code shall not be transferable in any other way than provided in this section. Any sale or transfer of more than ten (10) percent of the shares of any corporate entity shall be deemed a transfer of the license.

(Ord. No. 315, § 2-11, 9-18-02)

Sec. 10-192. - License moving to new location; changing name of business.

- (a) *New location.* A license may move his licensed premises to a new location and operate at the new location upon approval by the mayor of the licensee's application for a change of location. The licensee shall submit to the mayor an application for a change of location, accompanied by an application fee of five hundred dollars (\$500.00) at the time the application is filed. The application will contain, or have attached to it, a plan drawn to appropriate scale of the licensed premises at the new location indicating the area to be included in the new licensed premises, all windows, doors, entrances and exits and the fixed structural features of the new licensed premises. The term "fixed structural features" shall have the same meaning as in subsection 10-185(b)(23)b. If more than one (1) license has been issued to the licensed premises at the old location, the licensee shall state in his application for a change of location which of said licenses are being moved to the proposed new location. Upon approval of the application, there shall be issued to the licensee a license for the new location without the payment of any further fee.
- (b) *Change of name.* No licensee may change the name of the business located at his licensed premises without first giving the mayor thirty (30) days' notice in writing such change and without first making payment to the village clerk of a fifty dollar (\$50.00) change-of-name fee.

(Ord. No. 315, § 2-12, 9-18-02)

Sec. 10-193. - Suspension of license.

- (a) *Violations of health, building, zoning or fire provisions.* In the event a licensed premises is found in violation of a health, building, zoning or fire provision of this code, the appropriate department or agency shall notify the licensee of said violation(s) according to the standard procedures of the department or agency and shall follow its normal agency procedures for correcting said violation(s) and shall grant the licensee the right to exhaust applicable administrative remedies. Should the licensee fail to either correct the violation or to obtain an administrative reversal of the department or agency finding, the appropriate department or agency shall notify the mayor, who shall forthwith initiate procedures for suspension of license.
- (b) *Other violations.* In the event a jury or other trier of fact in a court of law, or the code enforcement master of the village finds that a licensee has violated section 10-216 of this code, whether or not an adjudication of guilt has been entered the mayor shall forthwith initiate procedures for suspension of license.
- (c) *Fine or suspension of license.*
 - (1) *Procedure.* Upon receiving notice that a licensee has violated a provision of this code, as provided in subsections (a) and (b) above, the mayor shall suspend the license issued for the premises where said violation occurred, unless otherwise provided below, and shall notify the licensee(s) of his action. Notification shall be by certified mail and shall be sent to the address on the license application, which shall be considered the correct address.
 - (2) *Periods of suspension.* A single violation by a licensee of this code shall result in suspension of the adult entertainment license for thirty (30) days. Upon a second violation of this code within a period of two (2) years from the date of a prior violation of this code but not including any time during which the license was suspended, the license shall be suspended for ninety (90) days. Upon a third violation of this code within a period of two (2) years from the first three (3) violations, but not including any time during which the license was suspended, the license shall

be suspended for one hundred and eighty (180) days. All periods of suspension shall begin on the fifteenth day from the date the mayor mails a notice of suspension to the licensee or on the date the licensee delivers his license to the mayor, whichever comes first.

Employers of adult entertainment establishments are responsible for the acts of their employees. Two (2) violations of this code within a thirty-day period by the same employee, as determined by a jury or other trier of fact, or by the code enforcement board of the village shall result in the suspension for seven (7) days of the adult entertainment license of the establishment where said employee(s) works or performs. Upon a third violation of this code by the same employee within a period of ninety (90) days from the date of a prior violation of this code, but not including any time during which the license was suspended, the license shall be suspended for four (4) weeks. Upon a fourth violation of this code by the same employee within a period of one hundred eighty (180) days from the first three (3) violations, but not including any time during which the license was suspended, the license shall be suspended for one hundred eighty (180) days. Upon a fifth violation of this code by the same employee within a period of one (1) year from the first of five (5) violations, but not including any time during which the license was suspended, the license shall be suspended for one (1) year.

All periods of suspension shall begin on the fifteenth day from the date the mayor mails a notice of suspension to the licensee or on the date the licensee delivers his license to the mayor, whichever comes first.

- (3) *Surrender of license required.* If a license, after having been mailed notice of the suspension of his license in the manner herein provided, fails to surrender his license to the mayor within fifteen (15) days or fails otherwise to account for the license to the satisfaction of the mayor, the period of suspension of the license shall be extended until and shall not expire until a period has elapsed after the date of surrender of the license or after the date of expiration of the license whichever comes first, which is identical in length with the original period of suspension.
- (4) When a license is suspended for a violation of a health, building, zoning or fire provision of this code, as described in subsection (a) above, the license shall not be reissued until said violation is corrected.

(Ord. No. 315, § 2-13, 9-18-02)

Sec. 10-194. - Appeals.

- (a) Appeals alleging error in the denial, suspension or revocation of an application for a license, a license or permit under this code shall be by petition for a formal hearing before the village council.
- (b) A notice of intent to appeal shall be filed with the village clerk and with the office of the village council within fifteen (15) days of the mailing of a notice of denial, suspension or revocation of an application for a license, a license or permit. Thereafter, and upon payment of a fee of three hundred dollars (\$300.00) to cover administrative costs, a hearing will be scheduled within thirty (30) days. The village clerk or the village council shall give the petitioning party at least ten (10) days' written notice of the time and place for the hearing.

(Ord. No. 315, § 2-14, 9-18-02)

Sec. 10-195. - License fee.

- (a) *Levy of fees.* There are hereby levied the following annual license fees under this code, which fees shall be paid to the Village of Virginia Gardens:
 - (1) *Adult bookstore:* Eight hundred dollars (\$800.00).
 - (2) *Adult motion picture theaters:* Eight hundred dollars (\$800.00), plus the following:

- a. Having only adult motion picture booths: Fifty-dollars (\$50.00) for each booth; or
- b. Having only a hall or auditorium: Eight dollars and fifty cents (\$8.50) for each seat or place; or
- c. Designed to permit viewing by patrons seated in automobiles: eight dollars and fifty cents (\$8.50) for each speaker or parking space; or
- d. Having a combination of any of the foregoing: The license fee applicable to each under subparagraphs (a), (b) and (c).

(3) *Adult motel*: Eight hundred dollars (\$800.00).

(4) *Adult dancing establishment*: One thousand five hundred dollars (\$1,500.00).

- (b) *License fees as regulatory fees*. The license fees collected under this code are fees paid for the purpose of examination and inspection of licensed premises under this code and the administration thereof and are declared to be regulatory fees in addition to and not in lieu of the occupational license fees imposed by other sections of the Village of Virginia Gardens Code. The payment of a license fee under this code shall not relieve any license or other person of liability for and the responsibility of paying an occupational license fee where the same is required by other sections of the Village of Virginia Gardens Code, and for doing such acts and providing such information as may be required by said sections.

(Ord. No. 315, § 2-15, 9-18-02)

Sec. 10-196. - Records and reports; consent by licensee.

Each licensee shall keep such records and make such reports as may be required by the mayor to implement this code and carry out its purpose. By applying for a license under this code, an individual, partnership or corporation, listed pursuant to subsection 10-185(b)(1), shall be deemed to have waived any privilege and to have consented to the provisions of this code and to the exercise by the mayor and other interested agencies of the powers given by section 10-182 in the manner therein specified.

(Ord. No. 315, § 2-16, 9-18-02)

Sec. 10-197. - More than one classification of adult entertainment at single location.

No building, premises, structure, or other facility that contains any classification of adult entertainment as defined in section 10-183(b), shall permit or contain any other classification of adult entertainment.

(Ord. No. 315, § 2-17, 9-18-02)

Sec. 10-198. - License required of commercial establishments advertising adult entertainment.

Any commercial establishment that displays a sign or engages in any form of advertising capable of leading a reasonable person to believe that said establishment offers, presents, and permits or engages in an activity required by this code to be licensed shall obtain an adult entertainment license in the appropriate classification.

(Ord. No. 315, § 2-18, 9-18-02)

Sec. 10-199. - General requirements.

Each premises licensed under this code shall:

- (1) Conform to all applicable building rules, codes, regulations, statutes, ordinances, or resolutions, whether federal, state, county, or local, specifically including the zoning ordinances of the village.
- (2) Conform to all applicable life safety or fire rules, codes, regulations, statutes, ordinances, or resolutions, whether federal, state, county, or local.
- (3) Conform to all applicable health and sanitary rules, codes, regulations, statutes, ordinances, or resolutions, whether federal, state, county, or local.
- (4) Have each and every glass areas that faces a public thoroughfare or through which casual passerby can see the materials or activity inside the licensed premises covered over by black paint or other opaque covering; provided, that this requirement shall not apply if the uncovered glass area exposes to public view only a lobby or anteroom containing no material or activity other than a reception counter or desk and chairs or couches for customers to use while waiting.
- (5) Conform to the requirements of F.S. ch. 381, and the rules and regulations of the Florida Department of Health and Rehabilitative Services made pursuant thereto. Each licensed premise shall be deemed to be a "place serving the public" for the purpose of sanitary facilities.

(Ord. No. 315, § 2-19, 9-18-02)

Sec. 10-200. - Distance requirements.

- (a) Notwithstanding any other provision of this code, no person shall, unless he had first obtained a variance from the village council, propose, cause, or permit the operation of, or enlargement of, an adult entertainment establishment which, while in operation or after enlargement, would or will be located within one thousand (1,000) feet of a preexisting religious institution, within one thousand (1,000) feet of a preexisting educational institution, within one seven hundred (700) feet of an area zoned within the county or a municipality primarily for residential use, within one thousand (1,000) feet of a preexisting park, or within one thousand (1,000) feet of a preexisting commercial establishment that in any manner sells or dispenses alcohol for on-premises consumption. The term "enlargement," as used in this subsection, includes, but is not limited to, increasing the floor size of the establishment by more than ten (10) percent.
- (b) The distance requirements of subsection (a) are independent of and not supersede the distance requirements for alcoholic beverage establishments contained in any other section of the Village Code of Ordinances.
- (c) Distance from a proposed or exiting adult entertainment establishment to a preexisting religious institution, a preexisting educational institution, an area zoned for residential use, a preexisting park, or a preexisting commercial establishment that sells or disposes alcohol for on-premises consumption shall be measured by drawing a straight line between the closest property lines of the proposed or existing adult entertainment establishment and the preexisting religious institution, preexisting educational institution, area zoned for residential use, preexisting park, or preexisting commercial establishment that sells or dispenses alcohol for on-premises consumption.
- (d) A minimum distance of fifteen (15) feet shall contentiously exist and be maintained from any stage, platform, or floor area where any person is conducting or engaged in any adult entertainment performance and any area where patrons are seated or congregating.
- (e) A minimum distance of six (6) feet shall contentiously exist and be maintained between tables where service is provided to patrons of adult entertainment establishments.

(Ord. No. 315, § 2-20, 9-18-02)

Secs. 10-201—10-210. - Reserved.

DIVISION 3. - CRIMINAL AND MISCELLANEOUS PROVISIONS

Sec. 10-211. - Operation of unlicensed premises.

It shall be unlawful for any person to operate an adult bookstore, adult motion picture theater, or adult dancing establishment unless such business shall have a currently valid license therefore under this code, which license shall not be under suspension or permanently or conditionally revoked.

(Ord. No. 315, § 3-1, 9-18-02)

Sec. 10-212. - Working at establishment which does not have valid adult entertainment occupational license.

It shall be unlawful for any person to work in an adult entertainment establishment that he knows or should know is not licensed under this code, or which has a license which is under suspension, has been revoked or canceled, or has expired.

(Ord. No. 315, § 3-2, 9-18-02)

Sec. 10-213. - Prescriptions where alcoholic beverages are sold, dispensed or permitted and where food or beverages are sold or dispensed.

The human genitals or pubic region, the areola of the female breast, and the cleavage of the human buttocks shall not be displayed or exposed on a licensed premises where alcoholic beverages are sold, dispensed or permitted. It shall be unlawful for any employee to exhibit specified anatomical areas while selling or dispensing any form of food or beverage. The provisions in this article are in addition to and not in place of the provisions of section 4-18 of the Code of Ordinances.

(Ord. No. 315, § 3-3, 9-18-02)

Sec. 10-214. - Admission of minor unlawful.

It shall be unlawful for a licensee or for operator of an adult entertainment establishment, regardless of whether it is licensed under this code, to admit or to permit the admission of minors to the premises. This adult entertainment code shall not apply to conduct the regulation of which has been preempted to the state under F.S. ch. 847.

(Ord. No. 315, § 3-4, 9-18-02)

Sec. 10-215. - Sale to minors.

It shall be unlawful for any person to sell, barter or give, or to offer to sell, barter or give, to any minor any service, material, device or thing sold or offered for sale by an adult bookstore, adult motion picture theater, massage establishment or adult dancing establishment, whether or not said establishment is licensed under this code.

(Ord. No. 315, § 3-5, 9-18-02)

Sec. 10-216. - Permitting violations of code or illegal acts.

No licensee, owner or employee shall permit, suffer or allow violations of this code or illegal acts to take place on the licensed premises, if the licensee or employee knows or has reason to know that such violations or illegal acts are taking place.

(Ord. No. 315, § 3-6, 9-18-02)

Sec. 10-217. - Allowing employee to engage in prohibited acts.

It shall be unlawful for an operator of an adult entertainment establishment, regardless of whether it is licensed under this code, to knowingly or with reason to know, permit suffer, or allow any employee:

- (1) To engage in a straddle dance with a person at the establishment;
- (2) To contract or otherwise agree with a person to engage in a straddle dance with a person at the establishment;
- (3) To engage in any specified sexual activity at the establishment;
- (4) To, where alcoholic beverages are sold, offered for sale, or consumed, display or expose at the establishment less than completely and opaquely covered human genitals or pubic region, less than completely opaquely covered cleavage of the human buttocks, less than completely and opaquely covered areola and nipple of the human female breast, or human male genitals in a discernibly turgid state, even if completely and opaquely covered;
- (5) To display or expose any specified anatomical area while simulating any specified sexual activity with any other person at the establishment, including with another employee;
- (6) To engage in a private performance;
- (7) To, while engaged in the display or exposure of any specified anatomical area, intentionally touch any person at the adult entertainment establishment, excluding with another employee;
- (8) To intentionally touch the clothed or unclothed body of any person at the adult entertainment establishment, excluding another employee, at any point below the waist and above the knee of the person, or to intentionally touch the clothed or unclothed breast of any female person.

(Ord. No. 315, § 3-17, 9-18-02)

Sec. 10-218. - Advertising prohibited.

It shall be unlawful for any employee of an adult entertainment establishment, regardless or whether it is licensed under this code, to advertise the presentation of any activity prohibited by any applicable state statute or local ordinance.

(Ord. No. 315, § 3-8, 9-18-02)

Sec. 10-219. - Engaging in prohibited activity.

It shall be unlawful for any employee of an adult entertainment establishment, regardless of whether it is licensed under this code:

- (1) To engage in a straddle dance with a person at the establishment;
- (2) To contract or otherwise agree with a person to engage in a straddle dance with a person at the establishment;

- (3) To engage in any specified sexual activity at the establishment;
- (4) To, where the employee knows or should know that alcoholic beverages are sold, offered for sale, or consumed, display or expose at the establishment less than completely and opaquely covered human genitals or pubic region, less than completely and opaquely covered areola and nipple of the human female breast, or human male genitals in a discernibly turgid state, even if completely and opaquely covered;
- (5) To engage in the display or exposure of any specified anatomical area while simulating any specified sexual activity with any other person at the establishment, including with another employee;
- (6) To engage in a private performance;
- (7) To, while engaged in the display or exposure of any specified anatomical area, intentionally touch any person at the adult entertainment establishment, excluding another employee; or
- (8) To touch the clothed or unclothed body of any person at the adult entertainment establishment, excluding another employee, at any point below the waist and above the knee of the person, or to touch the clothed or unclothed breast of any female person.

(Ord. No. 315, § 3-9, 9-18-02)

Sec. 10-220. - Touching of employee by person.

- (a) It shall be unlawful for any person in an adult entertainment establishment, other than another employee, to intentionally touch and employee who is displaying or exposing any specified anatomical area at the adult entertainment establishment.
- (b) It shall be unlawful for any person in an adult entertainment establishment, other than another employee, to intentionally touch the clothed or unclothed breast of any employee, or to touch the clothed body of any employee at any point below the waist and above the knee of the employee.

(Ord. No. 315, § 3-10, 9-18-02)

Sec. 10-221. - Use of restrooms or dressing rooms.

Notwithstanding any provision indicating to the contrary, it shall be unlawful for any employee of an adult entertainment establishment, regardless of whether it is licensed under this code, to expose any specified anatomical area during the employee's bona fide use of a restroom, or during the employee's bona fide use of a dressing room which is accessible only to employees.

(Ord. No. 315, § 3-11, 9-18-02)

Sec. 10-222. - Hours of operation.

- (a) It shall be unlawful for any operator of an adult entertainment establishment to allow such establishment to remain open for business, or to permit any employee to engage in performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service, between the hours of 2:00 a.m. and 9:00 a.m. of any particular day.
- (b) It shall be unlawful for any employee if an adult entertainment establishment to engage in performance, solicit a performance, make a sale, solicit a sale, provide service, or solicit a service, between the hours of 2:00 a.m. and 9:00 a.m. of any particular day.

(Ord. No. 315, § 3-12, 9-18-02)

Sec. 10-223. - Alteration of license.

It shall be unlawful for any person to alter or otherwise change the contents an adult entertainment license without the written permission of the mayor.

(Ord. No. 315, § 3-13, 9-18-02)

Sec. 10-224. - False statement or false information in applying for license or permit.

It shall be unlawful for any person applying for an adult entertainment license to make a false statement which is intended to facilitate the issuance of a license, or to provide false information which is intended to facilitate the issuance of a license.

(Ord. No. 315, § 3-14, 9-18-02)

Sec. 10-225. - Immunity from prosecution.

All officers and employees of the city who are acting within the scope of their authority and duties under this code shall be immune from prosecution, civil and criminal, for trespass upon real property.

(Ord. No. 315, § 3-15, 9-18-02)

Sec. 10-226. - Presumptions.

The following presumptions shall apply in actions brought for violation of this chapter:

- (1) Any person, who owns, operates, maintains or enters a commercial establishment, which advertises to the general public that said establishment provides, allows or permits the exhibition or display of specified anatomical areas, is presumed to be aware that the exhibition or display of specified anatomical areas is taking place in the establishment.
- (2) Any establishment which has received an occupational license to operate commercially is presumed to be a commercial establishment.

(Ord. No. 315, § 3-16, 9-18-02)

Sec. 10-227. - Proof.

- (a) In all actions, civil or criminal, for violation of this chapter, testimonial evidence that a beverage was an alcoholic beverage, beer or wine may be offered by any person who, by experience in the past in handling or using alcoholic beverages, beer or wine, or who by taste, smell or drinking of such liquids has knowledge of the presence of the alcoholic content thereof or the intoxicating effect thereof.
- (b) Any establishment which has received an occupational license to operate commercially is presumed to be a commercial establishment.

(Ord. No. 315, § 3-17, 9-18-02)

Sec. 10-228. - Penalties.

Any person who violates any section of this code shall be prosecuted and punished in accordance with the code and with general law and additionally shall be subject to suspension of his license or permit as provided in this code.

(Ord. No. 315, § 3-18, 9-18-02)

Sec. 10-229. - Powers of the village council.

The village council may bring suit to restrain, enjoin or otherwise prevent the violation of this code in the Circuit Court of Dade County, Florida.

(Ord. No. 315, § 3-19, 9-18-02)

Chapter 11 - MISCELLANEOUS OFFENSES^{[\[1\]](#)}

Footnotes:

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Cross reference— General penalty, § 1-16; public safety department, § 2-126 et seq.

ARTICLE I. - IN GENERAL

Sec. 11-1. - State and county offenses.

- (a) All ordinances of Metropolitan Dade County, Florida concerning crimes are hereby adopted as part of the Criminal Code of the village.
- (b) All provisions of the Florida Statutes concerning crimes are hereby adopted as part of the Criminal Code of the village.
- (c) The penalties as set forth in the aforesaid Metropolitan Dade County ordinances or the Florida Statutes, as the case may be, shall be considered to be the penalties applicable for the commission of such crimes within the boundaries of the village.

(Code 1967, § 12-7)

State Law reference— State law misdemeanors; see Fla. Stats. general index under heading "Crimes" for listing of state law misdemeanors; penalty for misdemeanors, §§ 775.082, 775.083.

Case Law reference— Adoption of state law relating to misdemeanors by city upheld, see *McFarland v. Roberts*, 74 So.2d 88 (Fla. 1954); also *Orr v. Quigg*, 135 Fla. 653, 185 So. 726 and *Wright v. Worth*, 83 Fla. 204, 91 So. 87; adoption of state law misdemeanors by reference includes laws both in existence at the time and those latter adopted by the state legislature, see *State v. Smith*, 189 So.2d 846 (Fla. 4th D.C.A. 1966). Follows rule in *Hecht v. Shaw*, 112 Fla. 762, 151 So. 333 (1933). ". . . when the adopting statute makes no reference to any particular statute or part of statute by its title or otherwise, but refers to the law generally which governs a particular subject, the reference in such a case includes not only the law in force at the date of the adopting act, but also all subsequent laws on the particular subject referred to . . ."

- (1) A municipality may enact an ordinance which creates an offense against municipal law for the same act that constitutes an offense against state law. *Jaramillo v. City of Homestead*, 322 So.2d 496 (Fla. 1975);

- (2) A municipality by ordinance may adopt state misdemeanor statutes by specific reference or by general reference, such as that contained in an ordinance making it unlawful to commit, within city limits, any act which is or shall be recognized by the laws of the state as a misdemeanor. *Id.*
- (3) An adoption by general reference of a misdemeanor statute permits subsequent amendments, revisions and repeals of the laws by the state legislature to apply to the municipal ordinances. *Id.*

Sec. 11-2. - Raising or flying balloons prohibited.

- (a) It shall be unlawful for any individual to raise or fly an air balloon as hereinafter described within the village limits or the airspace above such limits at a height of forty (40) feet or more from ground level. For the purposes of this section a "balloon" is defined as an airtight bag that rises when filled with a gas lighter than air, regardless of its shape.
- (b) Notwithstanding any of the foregoing, in addition to the limitations contained herein, no balloon shall be raised or flown so as to interfere, in any way, with the safety of vehicular traffic.

(Code 1967, § 12-01)

Sec. 11-3. - Obstructing, etc., streets or public places prohibited.

- (a) No person shall loiter, lounge or sleep in or upon any street, park or public place or in any public building obstructing the access to any public building or any part thereof or obstructing passage through or upon any public street, park or public place.
- (b) For the purposes of this section, the term "loiter" shall encompass, but shall not necessarily be limited to, one (1) or more of the following acts:
 - (1) Obstruction of the free unhampered passage of pedestrians or vehicles;
 - (2) Obstructing, molesting or interfering with any person lawfully upon any street, park or other public place;
 - (3) Refusing to move on when requested by a police officer; provided, that the police officer has exercised his discretion reasonably under the circumstances in order to preserve or promote public peace and order.
- (c) For the purpose of this section, the term "other public place" shall be deemed to include the quasi-public area in front of or adjacent to any store, shop, restaurant, luncheonette or other place of business and shall include also any parking lots or other vacant private property not owned or under the dominion of the person charged with a violation of this section.

(Code 1967, § 12-6)

Cross reference— Streets, sidewalks and other public places, Ch. 14.

Secs. 11-4—11-30. - Reserved.

ARTICLE II. - SEXUAL OFFENDERS AND PREDATORS

Sec. 11-31. - Findings and intent.

- (a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety and welfare of the community. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever

reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

- (b) It is the intent of this article to serve the compelling interest of the village to promote, protect and improve the health, safety and welfare of the citizens of the village by creating areas wherein certain sexual offenders and sexual predators are prohibited from establishing temporary or permanent residence around locations where children regularly congregate in concentrated numbers.

(Ord. No. 327, § 1, 7-21-05)

Sec. 11-32. - Definitions.

The following words, terms and 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:

"Permanent residence" means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.

"Temporary residence" means a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person's permanent address, or a place where the person routinely abides, lodges, or resides for a period of four (4) or more consecutive or non-consecutive days in any month and which is not the person's permanent residence.

(Ord. No. 327, § 2, 7-21-05)

Sec. 11-33. - Sexual offender and sexual predator residence prohibition; penalties; exceptions.

- (a) It is unlawful for any person who has been convicted of a violation of F.S. §§ 794.011, 800.04, 827.071, or 847.0145, regardless of whether adjudication has been withheld, in which the victim of the offense was less than sixteen (16) years of age, to establish a permanent residence or temporary residence within two thousand five hundred (2,500) feet of any school, designated public school bus stop, day care center, park, playground, recreational facility, or other place where children regularly congregate.
- (b) For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to nearest outer property line of a school, designated public school bus stop, day care center, park, playground, or other place where children regularly congregate.
- (c) A person who violates this section shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days, or by both such fine and imprisonment; for a second or subsequent conviction of a violation of this section, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the county jail not more than twelve (12) months, or by both such fine and imprisonment.
- (d) A person residing within two thousand five hundred (2,500) feet of any school, designated public school bus stop, day care center, park, playground, recreational facility, or other place where children regularly congregate, does not commit a violation of this section if any of the following apply:
 - (1) The person established the permanent residence prior to July 1, 2005.
 - (2) The person was a minor when he/she committed the offense and was not convicted as an adult.
 - (3) The person is a minor.

- (4) The school, designated public school bus stop, day care center, or recreational facility within two thousand five hundred (2,500) feet of the persons permanent residence was opened after the person established the permanent residence.

(Ord. No. 327, § 3, 7-21-05)

Sec. 11-34. - Sexual offenders and sexual predators prohibited from entering parks and recreational areas.

- (a) It is unlawful for any person who has been convicted of a violation of F.S. §§ 794.011, 800.04, 827.071, or 847.0145, regardless of whether the adjudication has been withheld, in which the victim of the offense was less than sixteen (16) years of age, to visit or enter upon, for any reason or purpose, any school, designated public school bus stop, day care center, park, playground, recreational area, or other places where children regularly congregate.
- (b) A person who violates this section shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days, or by both such fine and imprisonment; for a second or subsequent conviction of a violation of this section, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the county jail not more than twelve (12) months, or by both such fine and imprisonment.

(Ord. No. 327, § 5, 7-21-05)

Sec. 11-35. - Penalty.

A person who violates this section shall be punished by a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days, or by both such fine and imprisonment; for a second or subsequent conviction of a violation of this section, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment in the county jail not more than twelve (12) months, or by both such fine and imprisonment.

(Ord. No. 327, § 6, 7-21-05)

Sec. 11-36. - Cost.

If it is determined that a violation of this article was committed, all costs associated with the investigation and enforcement proceedings shall be assessed against the violator.

(Ord. No. 327, § 7, 7-21-05)

Chapter 12 - MOTOR VEHICLES AND TRAFFIC^[1]

Footnotes:

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Editor's note— The ordinances of the village relating to motor vehicles and traffic have not been set out in this Volume, as these matters are generally controlled by the Dade County Code, but such ordinances of the village have been saved from repeal by the adoption of this Code and may be found on file in the office of the village clerk. For county code provisions regarding traffic, see Dade County Code, § 30-1 et seq.

Cross reference— Public safety department, § 2-126 et seq.; alcoholic beverages, Ch. 4; health, sanitation and nuisances, Ch. 9; disposition of unoperable vehicles on certain premises, § 9-46 et seq.; noise regulations, § 9-66 et seq.; littering regulations, § 9-81 et seq.; throwing litter from vehicles prohibited, § 9-82; dropping litter from trucks prohibited, § 9-86; licenses and business regulations, Ch. 10; streets, sidewalks and other public places, Ch. 14.

State Law reference— Uniform traffic control law, F.S. ch. 316.

ARTICLE I. - IN GENERAL

Secs. 12-1—12-15. - Reserved.

ARTICLE II. - STOPPING, STANDING, PARKING^[2]

Footnotes:

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Editor's note— The editor has treated the provisions of Ord. No. 313, §§ 1—10, adopted June 20, 2002; and the provisions of Ord. No. 324, §§ 1—16, adopted March 17, 2005, as superseding former Art. II, § 12-26, which pertained to parking on swale areas and derived from the Code of 1967.

DIVISION 1. - GENERALLY

Sec. 12-16. - Definitions

The following words and phrases, when used in this ordinance, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

Damaged or inoperable vehicle: Any vehicle which has physical damage which prevents the vehicle from being readily driven or operated upon the public streets, highways, or other public thoroughfare, including any vehicle which does not have affixed to it a current and valid licenses plate with a current validation sticker, and including any vehicle which although having affixed to it a current and valid licenses plate with a current validation sticker, has not been moved for a period in excess of thirty (30) consecutive days.

Individual: Any natural person, business entity, or organization, whether singular or plural.

Motor vehicle: Any self-propelled vehicle not operated upon rails or guide-way, including automobiles, motorbuses, trucks, campers, heavy equipment, and other like self-propelled vehicles, but not including any bicycle or moped.

Park or parking: The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers as may be permitted by under this division.

Paved surfaces: Surface made of stone, concrete, clay, paving blocks, macadamizing, oil and chip, or of bituminous rock or asphalt, or of iron, wood or other material, whether patented or not, which is adopted by ordinance or resolution by the legislative body.

Residential district: The territory contiguous to, and including, a highway, not comprising a business district, when the property on such highway, for a distance of three hundred (300) feet or more, is, in the main, improved with residences or residences and buildings in use for business.

Stand or standing: The halting of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of, and while actually engaged in, receiving or discharging passengers, as may be permitted by law under this chapter.

Swale area: The area between the property line and the back of the street curb or the edge of the paved roadway, including the area front of any lot, building site, or residential property between the edge

of the sidewalk, in those areas having sidewalks, and the edge of the roadway, and is generally reserved as an easement, emergency recovery area, or right-of-way for municipal purposes.

Trailer: Any vehicle or device, with or without motive power, designed for carrying or transporting persons, merchandise, property, and for being drawn by a motor vehicle. This includes, but not be limited to, vehicles or devices designed, manufactured or used for: transporting or carrying boats, jet skis, or similar water craft; transporting or carrying motor scooters or motorcycles; transporting or carrying automobiles, trucks, buses or similar motor vehicles; or a dwelling place, living abode or sleeping place (either permanently or temporarily) and equipped for use as a conveyance on streets and highways.

Water craft: Any boat, airboat, jetskie, and other craft designed and used for travel on water or water related activities.

(Ord. No. 324, § 1, 3-17-05)

Sec. 12-17. - Parking or keeping of vehicles prohibited.

(a) *Prohibition:* It is prohibited, except as otherwise provided by this Code, for any individual to stop, stand, park, or maintain a vehicle, in any of the following places:

- (1) Upon any area or portion of any lot or building site which is not paved with an asphalt or concrete material, or which is not specifically designed, constructed, and approved as a parking area for vehicular use under the provisions of the Village Land Use Code. It is specifically prohibited under this section to stop, stand, park, or maintain a vehicle upon any area which is intended, designed or designated as a green space or upon any lawn or area the surface of which consists generally of sod, grass, dirt, sand, gravel, or any fill material.
- (2) On a sidewalk or in such manner that any part of such vehicle is protruding or extending into or over any part of sidewalk area;
- (3) In front of a public or private driveway or in such manner that any part of such vehicle is protruding or extending into the driveway area or in such a manner as to obstruct or hinder the ingress and egress from any public or private driveway or parking lot;
- (4) At any place in such a manner as to obstruct or hinder access to any commercial refuse container;
- (5) At any place in such a manner as to obstruct or hinder access to any restricted parking space;
- (6) At any place in such a manner as to obstruct or hinder access to any emergency lane;
- (7) Upon any street, roadway, or right-of-way, or in such manner that any part of such vehicle is protruding or extending into the street, roadway, or right-of-way;
- (8) Upon any swale area or other public property or right of way for a period longer than fourteen (14) consecutive days unless during the fourteen-day period the vehicle has been removed from the particular area for a period of at least twelve (12) consecutive hours;
- (9) In such a manner as to block or obstruct a safety zone;
- (10) In such proximity an intersection and in such a manner as to obstruct the view in the area of the intersection.

(b) *Exemptions:*

- (1) This prohibition against stopping, standing, parking, or maintaining a vehicle, in any of the places listed above does not apply under the following circumstances:
 - a. When stopping, standing, or parking the vehicle is necessary to avoid conflict with other traffic; or
 - b. When stopping, standing, or parking the vehicle is done in compliance with the directions of a police officer or traffic-control device; or

- c. When stopping, standing, or parking the vehicle is done only temporarily while delivering, loading, or unloading of merchandise, goods, or materials; or
 - d. When stopping, standing, or parking the vehicle is only temporarily while performing any construction, service, or repair function.
- (2) Single-family residential lots or sites are exempt from the prohibition against stopping, standing, parking, or maintaining a vehicle on any unpaved surface or on any area which is designed or designated as a green space or upon any lawn or area the surface of which consists generally of sod, grass, dirt, sand, gravel, or any fill material, as provided under subsection (a)(1) of this section, as follows:
 - a. The owner or occupant of a single-family residential lot or site is permitted to stop, stand, park, or maintain a vehicle upon an area which consists of two (2) strips constructed of an asphalt or concrete material, so that the tires of the vehicle remain continuously upon the two strips, provided that the area between the two parking strips is uniformly covered with gravel, mulch, or sod.
 - b. The owner or occupant of a single-family residential lot or site is permitted to stop, stand, park, or maintain a vehicle upon an area which is uniformly covered with gravel, mulch, sod, or similar material.
 - c. Notwithstanding this exemption no vehicle may be parked or maintained on any uncovered soil or dirt.
 - d. The exemption under this subsection applies exclusively to single-family residential lots or sites, and multifamily lots or sites consisting of no more than three (3) residential units.
 - e. The exemption under this subsection shall not apply to multifamily lots or sites consisting of more than three (3) residential units. All such multifamily lots or sites shall be required to have designated paved parking areas, and no vehicle shall be parked or maintained upon any unpaved surface or on any area which is intended, designed, or designated as a green space or upon any lawn or area the surface of which consists generally of sod, grass, dirt, sand, gravel, or any fill material.
- (3) Any resident who will be away from the property in the village and who intends to leave a vehicle parked in the swale area for an extended period of time, in excess of fourteen (14) consecutive days, can do so by notifying the village clerk in writing of the duration of the period during which the resident will be away from the village, including the anticipated date of departure and the anticipated date of return. The clerk shall transmit said the notification to the chief of police, who shall issue a watch order on the residence. During the duration of the watch order, the vehicle may continually remain parked in the swale area without violating any provision of this section.
- (4) It is permitted to temporarily park a vehicle, for a period not to exceed eight (8) hours, on any area which is intended, designed, or designated as a green space, or upon any lawn or area the surface of which consists generally of sod, grass, dirt, sand, gravel, or any fill material, provided the temporary parking of the vehicle does not occur on a daily or recurring basis, and is done only in connection with one of the following:
 - a. An event occurring at the location;
 - b. In connection with and pursuant to a special events permit; or
 - c. To wash or clean the vehicle, provided that no grease, oil, fuel, or other petroleum product or by product or other contaminate is used or dispersed.
- (c) *Hardship*: Any resident of a residential lot or site in the village to whom provisions of this section present a hardship, may apply for an exemption, without any cost, by submitting a written request to the village clerk detailing or explaining why the provisions of this section poses a hardship and the nature of the relief requested. The village clerk shall forward the request to the planning board for their recommendation and thereafter forward the recommendation to the village council. During the

pendency of the request for a hardship exemption, the enforcement of this section shall be suspended.

(Ord. No. 324, § 2, 3-17-05)

Sec. 12-18. - Manner of parking.

- (a) It is prohibited for any individual or entity to stand or park a vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic and with the curb-side wheels of the vehicle no further within twelve (12) inches of the edge of the roadway, except as provided in the following paragraphs:
 - (1) Upon a street which has been marked or on which a sign has been erected for angle parking, a vehicle shall be parked at the angle to the curb indicated by such mark or sign.
 - (2) In a place where, and at hours when, stopping for the delivery, loading, or unloading of merchandise, goods, or materials is permitted, a vehicle used for the transportation of merchandise, goods, or materials may back into the curb to take on or deliver or discharge its load, provided that the vehicle is not stopped or parked for longer than necessary to either to take on or deliver or discharge its load.
- (b) It is permitted to park a vehicle at an angle in any swale area which is of sufficient width to accommodate the vehicle so that no portion of the vehicle extends closer than twelve (12) inches from the edge of the pavement of the abutting roadway or street, and does not extend or protrude over any part of the sidewalk.

(Ord. No. 324, § 3, 3-17-05)

Sec. 12-19. - Parking or maintaining vehicles without valid and current license plate and validation sticker prohibited.

- (a) It is prohibited for any individual or entity to stop, stand, park, or otherwise maintain any vehicle upon any street, roadway, or upon any property in the village unless such vehicle has affixed to it a current and valid license plate and validation sticker.
- (b) This section shall not apply to any individual, entity, or facility holding a valid license to conduct business as a vehicle storage, salvage, service, or repair business or facility.

(Ord. No. 324, § 4, 3-17-05)

Sec. 12-20. - Parking or maintaining damaged or inoperable vehicles prohibited.

- (a) No individual or entity shall park or otherwise maintain any damaged or inoperable vehicle upon any property in the village, for a period in excess of ten (10) days.
- (b) This section shall not apply to any individual, entity, or facility holding a valid license to conduct business as a vehicle storage, salvage, service, or repair business or facility.

(Ord. No. 324, § 5, 3-17-05)

Sec. 12-21. - Parking for certain purposes prohibited.

It is prohibited stand or park a vehicle:

- (1) Upon a public or private street, parking lot, or any other property for the purpose and intent of displaying such vehicle thereon for sale, hire, or rental, except that the owner of the vehicle, who resides on the property, may maintain a for sale sign on said privately own vehicle;
- (2) Upon any public or private property for the purpose of performing any kind of service or repairs, except repairs necessitated by an emergency and repairs or service performed by the owner or occupant of the property upon a vehicle which is owned or regularly operated by the owner or occupant of the property where the repairs or service are being performed;
- (3) Upon any public or private street, parking lot or any other public property for the purpose of displaying advertising, except when so authorized or licensed under the laws of the village;
- (4) Upon any public or private street, public parking lot or any other public property for the purpose of selling merchandise from the motor vehicle, except in a duly established marketplace or when so authorized under the laws of the village.

(Ord. No. 324, § 6, 3-17-05)

Sec. 12-22. - Stopping, standing or parking for loading only.

- (a) It is prohibited to stop, stand, or park a vehicle in any place marked as a passenger zone for a period of time longer than the time indicated by signs or other appropriate markings or devices.
- (b) It is prohibited to stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked by an orange curb or official sign as a loading zone during the hours when the provisions applicable to such loading zones are in effect.

(Ord. No. 324, § 7, 3-17-05)

Sec. 12-23. - Parking of trailers prohibited.

It is prohibited to stand, park, or maintain any trailer, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device, in any of the following places:

- (1) On any sidewalk or in such a manner that any portion of the trailer shall protrude or extend onto or over any portion of the area of the sidewalk;
- (2) On any public street, highway, or roadway;
- (3) On any swale area, public property, or other public right-of-way;
- (4) On any village property except where specifically permitted by an official sign and, if so permitted, only for the purpose of, and during the time of, visiting or using the park or recreation facility where such parking is permitted.

(Ord. No. 324, § 8, 3-17-05)

Sec. 12-24. - Parking or maintaining of recreational vehicles and boats.

(a) *Parking and storage of water craft:*

- (1) Water crafts, such as boats, airboats, jetskies, and other similar water craft shall parked and maintain only in the rear yard or in the side yard to the rear of a line established by the front building line furthest from the street and set back to at least the rear building line wherever possible, but in no event in front of such front building line.

- (2) In the event that the boat, airboat, jetski, or other water craft is of a greater width than the side setback, such boat, airboat, jetski, or water craft will be permitted to be parked in the driveway or a paved area parallel thereto. However, no boat or water craft with an overall length of over twenty-five (25) feet, including the trailer and out drive or outboard engine, and eight (8) feet in width will be allowed to be parked in front of any home, duplex or apartment house within the village.
 - (3) No more than one (1) boat or water craft may be stored on anyone (1) premises.
 - (4) Boats and water craft and places of storage shall be kept in a clean, neat and presentable condition.
 - (5) All water craft parked or maintained in the village shall have a current and valid registration and validation sticker, and all trailers used to transport such water craft shall likewise have a current and valid registration and validation sticker.
 - (6) No major repairs or overhaul work shall be made or performed on the premises.
 - (7) The boats shall not be used for living or sleeping quarters and shall be placed on and secured to a transporting trailer carrying a current license.
- (b) *Recreational and camping equipment:*
- (1) Recreational and camping equipment in the form of travel and camping trailers, truck trailers, and motor travel homes, designed and used as temporary living quarters for recreation, camping, or travel use may be parked in the open on sites containing a single-family or duplex residence, subject to the following conditions:
 - a. No more than one (1) such piece of equipment shall be parked on such site.
 - b. Such parking shall be limited to such equipment owned or leased by the occupant-owner or occupant-lessee of the site concerned or owned or leased by a bona fide out-of-county house guest of the occupant-owner or occupant-lessee of the site concerned with the parking of such equipment by such guest not to exceed fourteen (14) days.
 - c. The location for such parked equipment shall be in the rear yard or in the side yard to the rear of a line established by the front building line furthest from the street and set back to at least the rear building line wherever possible, but in no event in front of such front building line. Such equipment shall be set back from side property lines at least a distance equivalent to the required side setback for the principal building and shall be set back from the rear property line at least ten (10) feet.
 - d. Such equipment and the area of parking shall be maintained in a clean, neat and presentable manner and the equipment shall be in usable condition at all times.
 - e. Such equipment shall, at all times, have attached a current and valid vehicle registration license plate and a current validation sticker.
 - f. No major repairs or overhaul work on such equipment shall be made or performed on the site, or any other work performed thereon which would constitute a nuisance under existing ordinances.
 - g. When parked on the site, such equipment shall not be used for living or sleeping quarters or for housekeeping or storage purposes and shall not have attached thereto any service connection lines, except as may periodically be required to maintain the equipment and appliances.
 - h. Such equipment shall not exceed the maximum length, width, height and weight permitted under applicable provisions of the motor vehicle laws of the state; provided, that the maximum length shall not exceed thirty (30) feet and the maximum height shall not exceed ten (10) feet.
 - i. Such equipment shall be so secured that it will not be a hazard or menace during high winds or hurricanes.

(Ord. No. 324, § 9, 3-17-05)

Sec. 12-25. - Obstruction of swale area prohibited.

- (a) *Obstruction prohibited:* It is prohibited to erect, construct, or otherwise place or maintain on any swale or public property or right-of-way any obstruction or any structure or object which would in any way hinder or obstruct the use of the swale area as an emergency recovery area for vehicle traffic on the abutting street or roadway, except as permitted by this section or by special permit by the village council.
- (b) *Restrictions:* The following shall apply to the maintenance of swales, public property, and right-of-ways abutting travel portions of public streets and roadways:
 - (1) No object shall be placed closer than eighteen (18) inches from the paved edge of the abutting public street or roadway;
 - (2) Only an object which is no larger than twelve (12) inches in circumference and not greater than five (5) inches in height, and have a flat bottom surface, and have a round dome may be placed or maintained in the swale area as curbing or bumpers;
 - (3) No object which is (a) square, or (b) greater than twelve (12) inches in circumference, or (c) greater than five (5) inches in height, or (d) which is pointed or pyramid in design, or (e) which would pose an obstruction to any vehicle may be placed in the swale areas.
 - (4) Trees may be planted in the center of the swale area and no closer than twenty-four inches (24) to the paved edge of the abutting public street or roadway, provided the tree is approved by the village, and the abutting property owner or occupant (meaning the property owner whose property is immediately facing the swale area) may construct or place a curb around such tree, provided such curb does not extend any closer than twenty-four (24) inches to the paved edge of the abutting public street or roadway unless such curb is designed and constructed consistent with the criteria set forth in subsection (2) of this section.
- (c) *Persons responsible and liable.* The owner and occupant, in the event the property is rented or leased, shall be held jointly and severally liable for compliance with the duties and obligations imposed by this article upon the owner of such property.
- (c) *Sidewalks, alleys and rights-of-way to be kept clean.* All owners and occupants of unimproved property, or occupants and owners of improved property shall maintain their property in a clean and litter-free manner, including sidewalks, grass strips, alleys up to and including the median point of the alley, curbs, swale areas, or rights-of-way up to the edge of the pavement of any public street or roadway.
- (d) *Maintenance of area next to or abutting the sidewalk.*
 - (1) Whenever there is a non-paved area between the sidewalk and the curb, or between the sidewalk and the property line, it shall be the responsibility of the owner and/or occupant of the property to make sure that there are no holes, obstructions, or hidden dangers in the unpaved areas.
 - (2) Whenever any employee of the village shall discover that non-paved areas are not kept in good condition, it shall be the duty of such village personnel to notify the owner and/or occupant of the existing condition. The person so notified shall have ten (10) days in which to rectify the condition. If the owner and/or occupant fails to comply with such notice, the village shall then perform the necessary work and shall assess the cost of such work against the property. Such assessment, if not paid, shall become a lien against the property.
- (f) *Removal of obstructions.*
 - (1) Written notice shall be given to the owner or occupant of the abutting property to remove any tree, shrub, or other obstruction upon any public street or roadway, sidewalk, swale area, or other public right-of-way area within the village. If the owner or occupant of the abutting property

fails to comply with such removal of trees, shrubbery, or obstruction within ten (10) days of receipt of the written notice, the village shall then perform the necessary removal operations and shall assess the cost of said removal against the property. Such assessment, if not paid, shall become a lien against the property.

- (2) If any tree, shrub, or other obstruction upon any street, sidewalk, swale area, or public right-of-way within the village creates an emergency situation involving potential danger to the health, safety, and welfare of the community, the village shall perform removal operations immediately, thus eliminating the emergency, and shall assess the cost of such removal against the property. Such assessment, if not paid, shall become a lien against the property.
- (g) *Issuance of notices restricted.* The notices sent to property owners or occupants as set forth above shall provide that only one (1) notice will be sent for a period of one (1) year from the date sent. Any and all other violations occurring under this article shall be remedied by the city without further notice.

(Ord. No. 324, § 10, 3-17-05)

Sec. 12-26. - Property owner responsibility.

It is the responsibility of both the owner of the real property and any person leasing, renting, or otherwise in actual possession or occupancy of the real property to prevent any violation this division.

(Ord. No. 324, § 11, 3-17-05)

Sec. 12-27. - Enforcement procedure.

In the event that the owner of the real property where the a violation of this section occurs is not in possession of the real property at the time of the violation, the village clerk shall provided notification, by certified mail, to said property owner advising them of the occurrence of a violation on their property, and also advising them that any subsequent violation will result in the issuance of a citation.

In the addition to the notification to the absentee owner of the real property where the a violation of this section occurs, any enforcement officer of the village may issue a citation for violation of this section to any individual or entity who is in actual possession of the real property at the time of the violation. The village clerk shall provided a copy of the citation together with the notification provided for in this section, by certified mail, to the absence property owner advising them of the occurrence of a violation on their property, the issuance of a citation against their tenant, and also advising them that any subsequent violation will result in the issuance of a citation.

(Ord. No. 324, § 12, 3-17-05)

Sec. 12-28. - Penalty.

Any person who violates any of the provisions of this section shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.

In addition to any penalty provided for in this section, the village may initiate proceedings to revoke the occupational license of any business or commercial establishment that violates this article more than six (6) times during a period of six (6) months.

(Ord. No. 324, § 13, 3-17-05)

Sec. 12-29. - Cost.

If it is determined that a violation of this division was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.

(Ord. No. 324, § 14, 3-17-05)

Sec. 12-30. - Lien.

Any fine imposed for violation of this division or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

Sec. 12-31. - Unpaid fine/issuance or suspension of occupational license.

In the event that any fine imposed for violation of this division or any assessment of costs related to the enforcement proceedings under this division shall remain unpaid at the time of renewal of the occupational license, the village clerk shall not issue a renewal of the occupational license until such fine or assessment is paid.

(Ord. No. 324, § 16, 3-17-05)

Secs. 12-32—12-35. - Reserved.

DIVISION 2. - COMMERCIAL VEHICLES

Sec. 12-36. - Definitions.

The following words and phrases, when used in this division, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

Business district: The area along territory contiguous to, and including, a highway when fifty (50) percent or more of the frontage thereon, for a distance of three hundred (300) feet or more, is occupied by buildings in use for business.

Commercial motor vehicle: Any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, and includes all of the following:

- (1) *Bus:* Any motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons and any motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.
- (2) *Road tractor:* Any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon, either independently or as any part of the weight of a vehicle or load so drawn.
- (3) *Semitrailer:* Any vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon, or is carried by, another vehicle.
- (4) *Special mobile equipment:* Any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditch digging apparatus, well-boring apparatus, and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earthmoving equipment. The term does not include house trailers, dump

trucks, truck-mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

- (5) *Trailer*: Any vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle.
- (6) *Truck*: Any motor vehicle designed, used, or maintained primarily for the transportation of property.
- (7) *Truck tractor*: Any motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.
- (8) *Straight truck*: Any truck on which the cargo unit and the motive power unit are located on the same frame so as to form a single, rigid unit.
- (9) *Tandem trailer truck*: Any combination of a truck tractor, semitrailer, and trailer coupled together so as to operate as a complete unit.
- (10) *Vehicle*: Every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

Daytime: The period from a half (½) hour before sunrise to a half (½) hour after sunset. Nighttime means at any other hour.

Motor vehicle: Any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle or moped.

Park or parking: The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers as may be permitted by law under this chapter.

Residence district: The territory contiguous to, and including, a highway, not comprising a business district, when the property on such highway, for a distance of three hundred (300) feet or more, is, in the main, improved with residences or residences and buildings in use for business.

Stand or standing: The halting of a vehicle, whether occupied or not, otherwise than temporarily, for the purpose of, and while actually engaged in, receiving or discharging passengers, as may be permitted by law under this chapter.

Service type vehicle: Any motor vehicle no greater than one and one half (1½) ton designed, used, or maintained primarily for the transportation of materials and tools or equipment, including tow, flat beds, or other auto transport vehicles, which is used by the driver/operator as part of, or in connection with any trade, profession, occupation, or employment which provides or requires any kind of service response in the night time, week ends, and/or holidays.

(Ord. No. 313, § 1, 6-20-02)

Sec. 12-37. - Overnight parking prohibited.

The overnight parking or stopping of any commercial vehicle is prohibited within all residential and business districts or areas of the village.

(Ord. No. 313, § 2, 6-20-02)

Sec. 12-38. - Parking in residential areas prohibited.

The parking or stopping of any commercial vehicle for more than one (1) hour is prohibited within in any residential district of area of the village.

(Ord. No. 313, § 3, 6-20-02)

Sec. 12-39. - Exception for service type vehicle.

The driver or operator of a service type vehicle, who resides in the village, may park the service type vehicle at the residence where the driver or operator resides.

(Ord. No. 313, § 4, 6-20-02)

Sec. 12-40. - Property owner responsibility.

It is the responsibility of both the owner of the real property and any person leasing or otherwise in actual possession or occupancy of the real property to prevent commercial vehicles from being stopped or parked in violation of this division.

(Ord. No. 313, § 5, 6-20-02)

Sec. 12-41. - Enforcement procedure.

The enforcement procedure of this division shall be as follows:

- (1) Any village police officer or code enforcement personnel who witnesses a violation of this division may issue a uniform parking citation to the commercial vehicle and shall prepare a report containing the date, time, and address where the violation occurred, and the identification of the commercial vehicle, including the make, model, year, license tag, and any business identification affixed to the vehicle.
- (2) Upon witnessing a violation, any village police officer or code enforcement personnel, shall, if possible, verbally advise any person or entity who owns or is occupying or in possession of the property where the violation occurred of the violation of this division. The village police officer or code enforcement personnel who provided verbal notice of the violation shall document the report of the violation the date, time, and place where the notice was given and full name and title of the individual to whom of notice was given.
- (3) The village police department shall as soon as possible send, via certified U.S. mail, copies of the following document:
 - a. A notice of violation, explaining that a violation of this division occurred, accompanied by the following:
 1. The uniform parking citation that was issued to the vehicle parked in violation of this division;
 2. The report written pursuant to subsection 12-41(1).
 3. A copy of this division to the following:
 - i. The address where the violation occurred, c/o the occupant of the property;
 - ii. The owner of the property, to the name and address listed in the public records; and
 - iii. The corporate headquarters of any entity that is listed as operating any business at the property or any entity that is the occupant of the property.
- (4) All notices given under this section shall, in addition to providing notification of the occurrence of the violation of this division, shall also advise the owner and/or occupant of the property that any subsequent violation will result in the issuance of a citation and subject them to the penalties provided for in this division.

- (5) In accordance with subsection (1) through (4) of this section, the owner or occupant of property in the village shall only receive the benefit of the pre-penalty warning or notification procedure once. In the event that a violation of this division occurs on any property where the warning or notification provided for in subsection (1) through (4) of this section was previously provided, the village police officer or code enforcement personnel who witnesses a violation of this division shall, in addition to issuance of a uniform parking citation to the offending vehicle, also issue a code enforcement citation to the owner and occupant of the property where the violation occurs.

(Ord. No. 313, § 6, 6-20-02)

Sec. 12-42. - Penalty.

Any person who violates any of the provisions of this division shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.

In addition to any penalty provided for in this section, the village may initiate proceedings to revoke the occupational license of any business or commercial establishment that violates this division more than six (6) times during a period of six (6) months.

(Ord. No. 313, § 7, 6-20-02)

Sec. 12-43. - Cost.

If it is determined that a violation of this division was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.

(Ord. No. 313, § 8, 6-20-02)

Sec. 12-44. - Lien.

Any fine imposed for violation of this division or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 313, § 9, 6-20-02)

Sec. 12-45. - Unpaid fine/issuance or suspension of occupational license.

In the event that any fine imposed for violation of this division or any assessment of costs related to the enforcement proceedings under this division shall remain unpaid at the time of renewal of the occupational license, the village clerk shall not issue a renewal of the occupational license until such fine or assessment is paid.

(Ord. No. 313, § 10, 6-20-02)

ARTICLE III. - BICYCLES

Sec. 12-46. - Registration required; records to be kept.

All bicycles operating on the streets of the village shall be registered as provided in this article. The chief of police or village clerk shall retain and maintain adequate records showing the name and address

of the owner of each bicycle operating on the streets of the village, the trade name under which the bicycle is known and sold, the serial number of the manufacturer, the registration number assigned to such bicycle and such other information relating to such bicycle or to the owner thereof as the chief of police may deem advisable.

(Code 1967, § 5-1)

Sec. 12-47. - Assignment and display of registration number.

- (a) An identification number shall be assigned to each bicycle registered under this article. Such registration number shall be impressed or otherwise shown upon a metal band affixed with a seal to the frame of the bicycle or in lieu of the use of such metal band the registration number shall be stamped upon the bicycle frame in one (1) or more places as determined by the chief of police.
- (b) The registration number assigned to a bicycle and placed thereon shall at all times be displayed thereon, and shall not be removed unless the use of such bicycle is permanently discontinued. It shall be unlawful for any person to operate any bicycle irrespective of the ownership thereof on the streets of the village, unless at the time of such operation the bicycle shall have been previously registered as provided in this article.

(Code 1967, § 5-2)

Sec. 12-48. - Issuance of registration card.

At the time of the registration of a bicycle under this article there shall be issued to the owner thereof a registration card setting forth the owner's name and address, trade name of the bicycle, the serial number of the manufacturer and the registration number assigned thereto, and such other information as the chief of police shall prescribe. Each registration card shall have printed thereon a form to be executed by the registered owner in the event that the bicycle described thereon shall be sold.

(Code 1967, § 5-3)

Sec. 12-49. - Fee.

A fee of fifty cents (\$0.50) shall be charged for the registration of each bicycle under this article.

(Code 1967, § 5-4)

Sec. 12-50. - Inspection required.

The owner of any bicycle operating on the streets of the village shall present such bicycle once every two (2) years at a time and place designated by the mayor for the purpose of having it inspected by the chief of police or such other person as the mayor may designate.

(Code 1967, § 5-5)

Sec. 12-51. - Purchase, sale, etc., of bicycles with serial or registration numbers removed, altered, etc.

It shall be unlawful for any person to purchase, receive, possess, conceal, sell or otherwise acquire any bicycle or part thereof on which the manufacturer's serial number or the registration number has been destroyed, removed, defaced or otherwise mutilated or altered.

(Code 1967, § 5-6)

Sec. 12-52. - Confiscation of unregistered bicycles by chief of police.

In the event that the chief of police shall find any bicycle upon the streets that is not registered as required by this article he shall have authority to confiscate such bicycle and hold it until claimed by the owner, or until the owner registers the same as provided in this article.

(Code 1967, § 5-7)

Sec. 12-53. - Confiscation and sale by chief of police of abandoned bicycles.

In the event the chief of police shall discover any abandoned bicycle, and cannot ascertain the true owner thereof, he shall be authorized to confiscate such bicycle and hold the same for a period of thirty (30) days. If at the end of that time no person claims such bicycle he shall be authorized to advertise such bicycle for sale as an abandoned bicycle in a newspaper with general circulation throughout the village, once a week for two (2) consecutive weeks of the time and place for the auction of such abandoned bicycle, and at such time and place the chief of police shall auction such bicycle to the highest and best bidder for cash. The proceeds of such sale shall be deposited in the general fund of the village.

(Code 1967, § 5-8)

Chapter 13 - SOLID WASTE^[1]

Footnotes:

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Cross reference— Administration, Ch. 2; enforcement by the code enforcement board, § 2-71 et seq.; animals, Ch. 5; buildings and building regulations, Ch. 6; health, sanitation and nuisances, Ch. 9; littering regulations, § 9-81 et seq.; streets, sidewalks and other public places, Ch. 14; utilities, Ch. 15; zoning, Ch. 16; supplemental district regulations, § 16-216.

ARTICLE I. - IN GENERAL

Sec. 13-1. - Definitions.

The following words, terms and 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:

Commercial use shall mean a rooming house, hotel, tourist cabin located in a tourist camp, trailer located in a trailer park, apartment house wherein garbage service is paid for by the owner or manager thereof and any other building, business or establishment of any nature or kind whatsoever, except residential. No commercial use within the meaning of this chapter, even though located in an apartment house, shall be considered a part of the apartment, but shall be treated as a separate commercial account.

Garbage shall mean every refuse accumulation of animal, fish, fowl, fruit and vegetable matter.

Householder shall mean a single person or head of a family using a residential use for himself or his family.

Residential use shall mean the whole or any part of a building used for sleeping or cooking purposes, except a rooming house, hotel, tourist cabin located in a tourist camp, trailer located in a trailer park or apartment house which pays for waste service furnished to tenants. For the purpose of this

chapter a trailer, tent and shelter, of any kind whatsoever, which is used for sleeping or cooking purposes shall be considered a building. No residential use, within the meaning of this chapter, even though located in a commercial building, shall be considered as a part of the commercial use, but shall be treated as a separate residential use and pay the rates prescribed for residential uses.

Rubbish shall mean shrubbery, trees, palm fronds and trimmings, or limbs therefrom, and other combustible material too large to be deposited in trash cans for collection and may include the definition of trash.

Trash shall mean small, discarded materials from around the premises, such as cans, glass, paper, paper cartons and other material which can be deposited in the approved trash cans for collection, lawn clippings, grass cuttings, leaves and small trimmings that can be placed in approved thirty-gallon garbage cans without protruding therefrom and may include the definition of rubbish.

Waste shall mean trash and garbage. Discarded building materials, dirt, rock, plaster, scrap iron and other like materials shall not be considered waste and do not come within the purview of this chapter.

(Code 1967, § 14-1)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 13-2. - Burning, burying, accumulation, etc., of waste prohibited.

No waste shall be burned, buried, placed around shrubbery or trees, or used as animal, fowl or fish food or transported upon the public streets of the village. The burning, burying, placing around shrubbery or trees, using an animal, fowl or fish food or transporting on the public streets of the village of waste shall constitute prima facie evidence of violation of this chapter by the householder or manager of the premises on which the same shall have occurred or from which the same shall have been transported. The presence of ashes, charred wastes and like substances on the premises shall constitute prima facie evidence of burning. No waste shall be permitted to accumulate so as to comprise a nuisance, fire hazard, breeding place for flies or other insects or harbor for rodents.

(Code 1967, § 14-13)

Secs. 13-3—13-25. - Reserved.

ARTICLE II. - COLLECTION

DIVISION 1. - GENERALLY

Sec. 13-26. - Franchise required for garbage and waste collectors.

No person shall be permitted to collect and dispose of his or any other person's garbage or trash for a consideration to be paid therefor or not, without having previously obtained a franchise therefor from the village council. No occupational license for the collection and disposal of garbage or trash within the village shall be issued to anyone without prior franchise approval of the village council.

(Code 1967, § 14-7)

Cross reference— Licenses and business regulations, Ch. 10.

Secs. 13-27—13-40. - Reserved.

DIVISION 2. - CONTAINERS

Sec. 13-41. - Owner, manager, etc., to pay for collection service and provide containers.

- (a) The owner of each lot, tract or parcel of land having a residential or commercial use located thereon, and the corresponding householder or manager, shall pay or cause to be paid the fees for waste service for each such residential or commercial use, as required by this chapter, and shall also provide or cause to be provided sufficient approved containers to take care of at least one (1) week's accumulation of waste on the premises. Not less than one (1) approved container shall be considered sufficient for each residential use; for each four (4) rooms in a rooming house, hotel, motel or other overnight accommodations where no cooking privileges are provided; for each room in such rooming house, hotel, motel or other overnight accommodations where cooking privileges are provided; for each apartment in an apartment house furnishing waste service; and for each other commercial use.
- (b) The failure of any such owner to make such payments or provide such containers shall not relieve the householder or the manager of a commercial use from the necessity of doing so. The failure of any such householder or manager to make such payments or provide such containers shall not relieve the owner from the necessity of doing so. Compliance by the owner with the requirements of this section shall relieve the householder or the manager of a commercial use, and compliance by the householder or the manager of a commercial use shall likewise relieve the owner, but noncompliance by either shall not excuse the other.

(Code 1967, § 14-8)

Sec. 13-42. - Requirements for waste containers.

Containers required under this chapter for waste shall be watertight receptacles of not more than thirty (30) gallons' capacity, of a solid and durable grade of material, and shall be provided with suitable handles and with a tight-fitting cover equipped with a handle. Such containers shall not have any inside bands, reinforcing angles or other obstacles which would prevent the free discharge of the contents. No containers shall be permitted to develop jagged or sharp edges capable of causing injury to waste collectors. All containers shall be kept clean at all times.

(Code 1967, § 14-9)

Sec. 13-43. - Placement of garbage and waste in waste containers.

- (a) All garbage shall be thoroughly drained of liquid matter and shall be well wrapped in paper before being deposited in containers. Waste containers shall be kept tightly covered at all times.
- (b) All glass, razor blades and all other like materials shall be securely wrapped so as to prevent personal injury to collectors and shall be deposited in trash containers. No hot ashes, tar, grease, chemicals, poisons or other materials offering a hazard to the collectors shall be placed in waste containers.
- (c) Carcasses of small animals shall be wrapped in paper and tied and placed in waste containers for removal. No human feces shall be placed in waste containers. Animal feces shall be well wrapped in paper. The waste collectors shall not be required to remove waste that is not in approved containers. No materials or liquids other than wastes ready for removal shall be kept in waste containers.

(Code 1967, § 14-10)

Sec. 13-44. - Placement of containers for collection.

Waste containers, if more than one (1) shall be placed within five (5) feet of each other and where easily accessible to the waste collectors. In no event shall such containers be kept in a place farther removed from the abutting public street or road than one hundred (100) feet distant therefrom. All boxes and paper cartons shall be torn apart and flattened out and put into a waste container. No person shall permit hazards in the line of ingress or egress of waste collectors.

(Code 1967, § 14-11)

Sec. 13-45. - Special containers for collection of rubbish.

Containers may be supplied by the contractor of the village who is hired to dispose of trash and rubbish, and if so supplied all rubbish that is not too large to protrude therefrom, lawn clippings, grass cuttings, leaves and small trimmings which can be placed therein without protruding therefrom shall be placed in such container and placed with the garbage cans or abutting the right-of-way of the street so as not to be an obstruction in the right-of-way, only on the day designated in each week when trash and rubbish collections are to be made, and shall not be placed on any property other than the property leased or under the control of the person paying the fees for such collection. Tree trunks or branches shall be cut into lengths not exceeding three (3) feet. No single piece of rubbish or trash shall exceed fifty (50) pounds.

(Code 1967, § 14-12)

Sec. 13-46. - Garbage receptacles to be kept closed.

- (a) All garbage receptacles shall be closed at all times except for the actual deposit or removal of garbage.
- (b) The owner or lessee of any real property situated in the village, or if such real property constitutes multiple units, the owner or manager of such property shall be responsible for complying with the provisions of this section.
- (c) In the event the owner or lessee, as above stated, or the owner or manager, as above stated, fails to abide by the provisions of this section, then in that event, such owner or manager shall, upon conviction, be subject to a fine not to exceed one hundred dollars (\$100.00).

(Code 1967, § 14-13.1)

Sec. 13-47. - Proper use of receptacles.

Persons placing litter, garbage, refuse or rubbish in public receptacles or in authorized private receptacles shall do so in such manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

(Code 1967, § 14-15)

Sec. 13-48. - Animal or vegetable matter to be deposited in closed container.

Except as otherwise provided in this chapter, no person shall leave upon any sidewalk, street, public place or any place exposed to the open air, litter, garbage, refuse or rubbish containing any amount of vegetable or animal matter subject to putrefaction unless such vegetable or animal matter is in a metal container which is waterproofed and tightly covered.

(Code 1967, § 14-21)

Cross reference— Animals, Ch. 5.

Sec. 13-49. - Placement of garbage and waste and recycle containers, dumpsters, bins.

- (a) *Residential properties:* As to all residential properties with less than four (4) dwelling units, and which do not utilize dumpsters for garbage or recycling collection, the following shall govern the placement, location, and maintenance of all containers, reservoirs, and bins used for depositing or disposing of garbage, waste, and recycling:
- (1) Garbage and waste shall be placed for pick-up only after 6:00 p.m. on Monday and Thursday, which are the nights, preceding the scheduled dates for garbage and waste pickup in the village.
 - (2) All garbage and waste receptacles shall be removed no later than 8:00 p.m. on Tuesday and Fridays from the swale area and/or the proximity of the front property line and placed in an area behind the front property line of said property.
 - (3) Recycling bins shall be placed for pickup only after 6:00 p.m. on Monday, which is the night preceding recyclable pick up in the village.
 - (4) All recycling bins shall be removed no later than 8:00 p.m. on Tuesday from the swale area and/or proximity of the front property line and placed in area behind the building line of said property.
- (b) *Commercial and multifamily:* As to all commercial and multifamily residential properties with five (5) or more dwelling units, and which utilize dumpsters for garbage or recycling collection the following shall govern the placement, location, and maintenance of all containers, reservoirs, and bins used for depositing or disposing of garbage, waste, and recycling:
- (1) *Location:* All dumpsters, and other receptacles used in conjunction therewith, if any, utilized for garbage, waste, and recycling collection in all applicable areas shall be kept in a location that is easily accessible to garbage and recycling collectors, but shall not be placed upon any street, sidewalk, alley, or public place or in any location that obstructs or interferes with pedestrian or vehicle travel or movement.
 - (2) *Enclosure required:* All of the dumpsters and collection receptacles shall be placed and maintained within opaque enclosures of wood or masonry construction so as not to be visible from the street and from abutting properties.

Multiple-family properties and commercial establishments that can be automated by utilizing garbage and recycling automated containers shall be required to maintain a landscaped enclosure area surrounding the automated collection equipment, subject to the visibility requirements of this section, adjacent to a driveway or roadway for collection by the automated truck.
 - (3) *Placement of enclosures:* Enclosures shall be located not less than ten (10) feet away from any street right-of-way (except service alleys), and shall be located as to facilitate safe vehicular movement and be convenient for users and accessible to servicing vehicles. All enclosures shall be required to provide a minimum visibility clearance at street and driveway intersections as follows:
 - a. At street intersections, no enclosure shall be located within an area twenty-five (25) feet along each intersection right-of-way, and then connecting the ends of the lines.
 - b. At intersections of driveways and streets, no enclosure shall be located within an area ten (10) feet along each intersecting line and then connecting the ends of the lines.
 - c. The village building official shall have the discretion to permit the enclosure to be located in a setback area or a parking space required under this Code when no other suitable location exists on the property.

- (4) *Construction standards for enclosures:* All exterior garbage and recycling container enclosures shall be constructed to comply with the following standards:
- a. Florida Building Code: The construction of any wood or masonry enclosures shall comply within, and be predicated on the current requirements of the Florida Building Code.
 - b. Height: The enclosure walls and gates must be at least six (6) feet in height, but never less than eight (8) inches above the height of the container, so as to conceal the dumpster or container from view. The gate shall have a clearance on the bottom of no less than twelve (12) inches, so as to permit viewing of the enclosed area.
 - c. Base or foundation: The base of the enclosure shall be a hardpaved surface of asphalt or poured concrete with dimensions at least twenty-four (24) inches larger on all sides than the container to be located upon the base. The minimum inside dimensions of any enclosure shall be no less than six (6) feet by six (6) feet. The base shall be equipped with a drain and trap where a drain or trap is required by the applicable building codes and designed in a manner so as to drain only the area of the enclosure base. The access drive to the enclosure shall be designed to bear the weight of a garbage truck and shall be so maintained. Concrete wheel stops or similar material shall be placed at the side and rear of the enclosure six (6) inches from the walls to prevent the container from striking the walls of the enclosure.
 - d. Grade of materials: Only pressure treated wood, block, and stucco shall be used to construct the enclosures. No chain link or chain link with slates shall be used to construct the enclosures. Enclosure types shall be constructed of or with quality materials of sufficient strength and assembly to withstand the elements and normal daily use of garbage disposal and pickups. Enclosures constructed of wood shall be assembled utilizing pressure-treated wood and sufficient vertical and lateral support bracing as approved by the building official at the time of permit application. When masonry construction is required or used, all exterior walls shall be stuccoed and painted to present a finished appearance.
 - e. Gates: The gates shall be attached to metal posts a minimum of three (3) inches in diameter with a minimum of three (3) hinges per post. Each gate shall have a wheel at the bottom to prevent it from sagging. The gates shall have drop pin/rods to hold them in place in both the open and closed position. The gate shall have a clearance on the bottom of no less than twelve (12) inches, so as to permit viewing of the enclosed area.
 - f. Pedestrian access: All enclosures constructed for use on multifamily residential property shall be constructed with a thirty-six (36) inch opening on one (1) side as a pedestrian access to the enclosure which shall enable a person to walk into the enclosure to deposit trash, and shall be located immediately adjacent to one of the opaque gates. The pedestrian opening shall be screened from view by a wood fence six (6) feet in height, or by landscaping of equal minimum height so planted as to provide maximum capacity. A walkway of concrete or asphalt shall be provided for the pedestrian opening that is a minimum of thirty (30) inches in width.
 - g. Appearance and maintenance standards: All exterior garbage and recycling container enclosures shall be required to comply with the following standards:
 1. All exterior and interior walls and gates of both wood and masonry enclosures shall be painted in a color which is compatible with the color of the building or buildings it serves. Patchwork painting is prohibited.
 2. Signage of any type or graffiti is not permitted on the walls and gates of any enclosure. All graffiti shall be painted over within five (5) weekdays after it is discovered.
 3. Enclosures shall be maintained in good condition and appearance at all times. Peeling, fading, or chipped paint shall be restored; and, any structural damage shall be repaired.

4. Trash, garbage, or recycling materials shall be kept in the container at all times, and the container shall have a lid or cover that is kept closed at all times. Trash, garbage, or recycling materials shall not be placed around the container or anywhere outside of the enclosure.
 5. Enclosure gates shall be kept closed and secured, except when materials are being placed in the container or the container is serviced.
- (c) *Penalties.* Any person who violates any of the provisions of this section shall be subject to a fine which shall not exceed two hundred and fifty dollars (\$250.00) per day for the first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation. The penalties for violation of the provisions of this section shall be progressive, with the initial violation resulting only in a written warning which shall be accompanied by a written notice of the proper placement of the garbage and recycle containers, and a code enforcement citation may be issued only upon a second or subsequent violation.
- (d) *Costs to constitute lien.* Any fine imposed for violation of this section or any assessment of costs related to enforcement proceedings, shall constitute a lien against the property of the violator, in accordance with F.S. § 162.09(3).

(Ord. No. 282, §§ 1—3, 10-15-92; Ord. No. 318, 10-16-03; Ord. No. 322, 3-18-04)

Secs. 13-50—13-60. - Reserved.

DIVISION 3. - RATES, CHARGES AND BILLING^[2]

Footnotes:

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Cross reference— Finance and taxation, Ch. 8.

Sec. 13-61. - Fees for garbage and waste collection.

- (a) All owners, managers or other persons having residential property within the residential zoning district of the village are hereby required to pay to the village for the collection and disposal of garbage and waste the sum set by resolution of the village council which is on file in the village clerk's office for each residential unit where such garbage or waste is collected and disposed of by the village, regardless of whether or not they are billed for such services. In the event service as to each residential unit is not required by the person in charge thereof, a notice, in writing, shall be given to the village clerk of the termination of this service.
- (b) Commercial uses and trailer parks shall pay the rate set by resolution of the village council which is on file in the village clerk's office and payments shall be made in the same manner and at the same time as required by residential uses. It is presumed that each trailer in a trailer park is occupied, and waste collection fees shall be paid for each trailer, if payment is based upon the number of trailers, unless at the beginning of each month the owner or manager shall furnish the village clerk an affidavit listing the trailers that are not occupied.
- (c) This section is not to be construed as to in any way relieve the owner or manager of the primary responsibility of paying waste collection fees.

(Code 1967, § 14-2)

Sec. 13-62. - Billing.

All billing for charges for domestic water consumption and garbage/trash collection shall be payable to the village on a quarterly basis and there shall be a single bill showing such charges.

(Code 1967, § 14-2.1)

Sec. 13-63. - Payment.

- (a) Bills rendered for domestic water consumption and garbage/trash collection are payable upon receipt and shall be billed quarterly. Such bills shall be rendered the first period of the month following the current billing period. If the fees for quarterly services are raised or lowered, the difference will be credited or billed at the beginning of the next regular quarter.
- (b) Whenever any payment shall be required for service starting after the beginning of any quarterly period, the fees shall be prorated on a monthly basis, fourteen (14) or more days of any month being considered a whole month. No refunds shall be made.
- (c) No person who is charged with the responsibility of paying for waste collection service within the village shall fail to pay for the same within thirty (30) days after the same shall become due.
- (d) All payments due hereunder shall be payable to the village. The total amount received for garbage/trash charges, excluding delinquent fees or returned checks service fees shall be transferred to the village general fund. The balance of payments received hereunder shall be recorded as water department revenue.

(Code 1967, § 14-3)

Sec. 13-64. - Responsibility of owner for payment; collection by lien.

In the event that any water or garbage/trash bill is not paid within sixty (60) days from the date thereof, then, in addition to all other remedies available to the village, the village shall have the right to place a lien upon the property for the amount due, together with the applicable late charge. Such lien shall accrue interest at the lawful rate and the village shall be entitled to attorneys' fees for the placing of such lien on such property, the removal of such lien from such property upon payment or the foreclosure of such lien, should same be necessary. Increased water deposit and/or advance payments on garbage/trash service may be required if an account is in arrears for such sixty-day period or an account has not been timely paid for any three (3) billing periods.

(Code 1967, § 14-4)

State Law reference— Restrictions on placing liens on property for water and sewer service, F.S. § 180.135.

Sec. 13-65. - Changes in location, occupancy, etc.

No transfer of location of collections of waste shall be permitted, and fees paid therefor shall be deemed to apply to the particular location. Adjustments may be made with the succeeding occupant or owner by the person having paid the fees. Owners, householders and managers of commercial uses shall advise the office of the contractor of any change of ownership, occupancy or mailing address within ten (10) days of such change.

(Code 1967, § 14-5)

Sec. 13-66. - Penalty for delinquent payment.

If any bill rendered hereunder shall not be paid prior to the past-due date indicated on the bill, there shall be added to that bill for administrative or other expenses a late charge of ten (10) percent of the total amount due as reflected in such bill. All late charges and all returned check charges shall be considered water department revenue.

(Code 1967, § 14-6)

Chapter 14 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES^{[11](#)}

Footnotes:

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Charter reference— Special assessment for benefited property, § 14.2.

Cross reference— Zoning and planning board, § 2-91 et seq.; enforcement by the code enforcement board, § 2-71 et seq.; alcoholic beverages, Ch. 4; restrictions on locating retail liquor establishments near churches and schools, § 4-1; restrictions on locating beer or wine establishments near churches and schools, § 4-2; consumption of intoxicating or alcoholic beverages in public places restricted, § 4-6; animals, Ch. 5; regulations regarding dish antennas, § 6-91 et seq.; health, sanitation and nuisances, Ch. 9; disposition of inoperable vehicles on certain premises, § 9-46 et seq.; noise regulations, § 9-66 et seq.; deposit of litter in streets and public places in other than receptacles prohibited, § 9-81; sweeping litter into gutters, streets, sidewalks, etc., prohibited, § 9-84; licenses and business regulations, Ch. 10; regulations regarding peddlers, itinerant vendors, solicitors, § 10-56 et seq.; obstructing, etc., streets or public places prohibited, § 11-3; motor vehicles and traffic, Ch. 12; solid waste regulations, Ch. 13; off-street parking requirements, § 16-218; sign regulations, § 16-241 et seq.; regulations regarding political signs and special event signs, § 16-242.

ARTICLE I. - IN GENERAL

Sec. 14-1. - Obstructions in streets, sidewalks, etc.

- (a) No person shall place any trash, lumber, wood, glass or other obstruction in any public street, lane, alley or way, or on any sidewalk. No person who shall place any such obstruction in any street, lane, alley or way, or on any sidewalk, and shall fail to remove the same within six (6) hours after being notified by the chief of police or any police officer or who, after having removed such obstruction, shall replace them or place similar obstructions.
- (b) Any person actually building or about to build or repair any building, or construct or repair any sewer or line of water or gas piping, may collect and lay all such materials as may be necessary adjoining the place where such building or repairing is to be done, or in front of such building, and shall have the privilege of using one-third of the width of the street adjoining in front of such building or repairs. But in no event shall any person obstruct the sidewalk in front of or along the site or place where such improvement is being made, or where such building is in process of repair or construction, except upon written consent of the mayor, and in no event shall such obstruction of sidewalk be permitted for a period exceeding one (1) day.
- (c) The owner or proprietor of such materials shall cause a lamp or lantern, with a good and sufficient light therein, to be securely hung up, placed or fixed on a post or otherwise at each end of the pile of material which may be lying in the street, lane or sidewalk and obstructing the same, and in such manner as to clearly and plainly show the place and extent occupied by such material. Such lamp or lantern shall be lighted by the owner, proprietor or his employees, at or before dark in the evening, and shall be kept burning until daylight. When buildings, or any part thereof, are erected or increased in height to over one (1) story in height above or along any street or sidewalk, the person erecting or

altering such building shall erect and maintain an improved substantial shed from the area line to the sidewalk curb for the full frontage of the building. Such shed shall have a clearance above the sidewalk of not less than eight (8) feet, and shall be open at both ends and on the side next to the street.

(Code 1967, § 17-2)

Cross reference— Littering regulations, § 9-81 et seq.

Secs. 14-2—14-25. - Reserved.

ARTICLE II. - STREET AND SIDEWALK CONSTRUCTION AND REPAIR

DIVISION 1. - GENERALLY

Sec. 14-26. - Furnishing of lines and grades.

- (a) Lines and grades for the building of sidewalks, curbs, and curbs and gutters shall be furnished by the building inspector. The contractor shall furnish all stakes or pins and such ordinary labor as may be necessary for setting grades. He is to take necessary steps to protect and care for the stakes after grade is set, and if any one (1) of the stakes is disturbed, the grade is to be reset at the contractor's expense.
- (b) Any person using the public streets or alleys for placing or changing any pipes, railways, hydrants, street lamps, shade trees or other improvements, under any contract or agreement with this village or otherwise, shall first obtain the proper street grades and lines from the building inspector, at the expense of the person doing the work, and shall conform to such grades and lines when given.

(Code 1967, § 17-8)

Sec. 14-27. - Notice of commencement of work; filing of permits, certificates, fees, etc.

After grades are finished, at least twenty-four (24) hours' notice shall be given the building inspector by the contractor before actual construction under this article is begun, the contractor specifying, as nearly as practicable, the hour at which he expects to start work. The fact that a permit has been secured or grades given shall not constitute legal notice.

(Code 1967, § 17-9)

Sec. 14-28. - Inspection of work.

For purposes of inspection of sidewalk, curb or curb and gutter work, the building inspector, or someone under his direction, shall have free access to the materials and work at all times, and all work done or materials furnished are to be subject to the building inspector's acceptance. An inspector shall be present at the work as far as practicable during its progress. The duties of such inspector are to see that the construction conforms to the provisions of this article and to the grades and lines as given. Whenever in the judgment of the inspector the work or materials are not in accordance with the provisions of this article, he shall have power to stop the work, which shall not be resumed until the mayor has rendered his decision upon the matter in dispute. If at any time before final acceptance or approval of the work by the building inspector, defects are found, the contractor is forthwith to make good such defects, whether such defects may have been overlooked by the building inspector or may have been caused by damage from any source.

(Code 1967, § 17-10)

Sec. 14-29. - Closing of streets during progress of work.

- (a) When any work is being done or is to be done under the direction of the village authorities on any street, avenue or alley in the village, such street, avenue or alley, or any part thereof, may be closed to the passage of vehicles or pedestrians while such work is in progress.
- (b) No person under the provisions of this article shall be allowed, under a permit provided for in this article, to excavate, dig up or obstruct more than two (2) adjacent blocks at a time, and the work on one (1) of such blocks shall be completed and the sidewalk and street pavement shall be placed in as good a condition as existed before the work was commenced, before such person to whom such permit has been granted shall be allowed to begin work in a new block.

(Code 1967, § 17-11)

Sec. 14-30. - Utility conduits, facilities, etc., to be installed prior to paving of street.

When any street, alley or public place within the village has been ordered paved and otherwise permanently improved, it shall be the duty of all individuals, organizations and public service corporations legally occupying such street, alley or public place, to proceed without delay to order the necessary materials for the laying of sewers, water and gas mains, telephone or electrical conduits, with connections and services to the same, and to proceed with reasonable expedition to excavate and install the same.

(Code 1967, § 17-12)

Sec. 14-31. - Obstruction of street with materials.

Materials such as are to be used in any work under this article or for construction purposes may be piled in the street by the contractor, but in such manner as not to cause needless obstruction to traffic, and the contractor is not to use more than one-half the width of the street in any case for construction purposes. All sidewalks, gutters, drains, fire hydrants, roadways and private driveways within the block in which work is being done are to be kept open by the contractor for their intended use. As soon as the work is finished, all accumulated rubbish or surplus materials, forms, tools and equipment shall be promptly removed from the street by the contractor.

(Code 1967, § 17-13)

Sec. 14-32. - Certificates of approval.

After final acceptance of any work under this article, a written certificate of approval shall be furnished by the building inspector to the effect that the work has been done in accordance with the provisions of this article, and in conformity with the established village lines and grades, and no sidewalk, curb or curb and gutter work shall be deemed to comply with this article unless such written certificate of approval has been furnished.

(Code 1967, § 17-14)

Sec. 14-33. - Permit fees.

- (a) The fees to be charged for building line and grade permits, sidewalk permits, driveway permits and street cut permits within the village are hereby fixed as follows:

- (1) For any street cut permit, such as for the installation of sewers, water lines, gas lines, sidewalk or street repairs, or for the installation or repair of any underground structure in any street, the charge shall be two dollars (\$2.00) where the work involves five hundred (500) linear feet of street or less, plus an additional charge of one dollar (\$1.00) for each additional five hundred (500) linear feet or fraction thereof involved.
 - (2) For building line and grade permits, a charge of ten dollars (\$10.00) shall be made for each permit.
 - (3) For sidewalk permits a charge of ten dollars (\$10.00) shall be made for each permit involving one hundred (100) linear feet of sidewalk or less, plus an additional charge of two dollars and fifty cents (\$2.50) for each additional one hundred (100) linear feet or fraction thereof.
 - (4) For driveway permits involving thirty (30) linear feet of driveway or less, a charge of five dollars (\$5.00) shall be made for each permit, and for driveway permits involving more than thirty (30) linear feet of continuous driveway a charge of ten dollars (\$10.00) shall be made for each permit.
- (b) All permits, applications, certificates, etc., mentioned in this article shall be made in duplicate and the originals shall be filed with the village clerk and the copy retained by the building inspector. All fees mentioned in this article shall be delivered to the village clerk and the clerk shall issue receipts therefor.

(Code 1967, §§ 17-7, 17-9)

Secs. 14-34—14-45. - Reserved.

DIVISION 2. - USE OF RIGHT-OF-WAY

Sec. 14-46. - Permit required.

All persons or entities who lay lines, wires and cables, including utility lines, utilizing rights-of-way or easements within the village shall post a bond or other security prior to the commencement of such work in an amount sufficient to cover the restoration of such rights-of-way or easements to the same condition prior to the commencement of such work.

(Code 1967, § 10A-6)

Sec. 14-47. - Bond prerequisite for issuance of permit.

- (a) No permit shall be issued for the purpose of allowing the laying of any lines, wires and cables, including utility lines, until such time as the bond or other security in a form acceptable to the clerk of the village is posted with the village.
- (b) The amount of the bond shall be set by the village clerk and be in an amount necessary to restore the rights-of-way or easements to the same condition that they were prior to the commencement of the work to be undertaken.
- (c) The clerk of the village shall accept as sufficient in form any bond written by a surety company licensed to do business in the state or, in the alternative, any cashier's check, bank draft or cash payment made by such person or entity in the amount as established by the clerk of the village.

(Code 1967, §§ 10A-7—10A-9)

Sec. 14-48. - Use or refund of security.

Upon complete restoration of the rights-of-way or easements by the person or entity posting the bond or other security, in the same condition as prior to commencement of work, the bond or other security shall be refunded. Should complete restoration as hereinbefore required not be made within thirty (30) days of completion of work, the village may perform such restoration and utilize the bond or other security as payment for the restoration.

(Code 1967, § 10A-10)

Sec. 14-49. - Appeals.

If any person or entity considers the bond or security to be excessive, such person or entity may appear before the village council at its next regular meeting for the purpose of objecting to the amount of such bond or other security and the council may set such bond or other security at an amount which it feels proper for the purpose herein intended after hearing from the objecting party as well as other members of the public and representatives of the village.

(Code 1967, § 10A-11)

Secs. 14-50—14-60. - Reserved.

DIVISION 3. - EXCAVATIONS

Sec. 14-61. - Permit required; payment of costs of restoration.

- (a) When any person shall desire to disturb, cut into, dig up or excavate any public street or sidewalk, whether the same is paved or unpaved, or to cause the same to be done, application shall be made to the building inspector for permission therefor.
- (b) Upon compliance with the terms of this section, the building inspector shall calculate the cost of fully restoring the street or sidewalk to the condition in which it may be found upon the filing of such application. Such cost shall be calculated by the square feet at such reasonable rates as the village council may by resolution from time to time prescribe for such work. Thereupon the building inspector shall prepare a permit for the work and shall therein fix such time for the completion of such work as under all the circumstances will be reasonable.
- (c) The applicant shall pay to the village clerk or post a good and sufficient bond to be approved by the village clerk, the amount of the cost of such restoration as calculated by the building inspector, and shall sign acceptance of the terms of such permit. The permit shall be delivered to the applicant who shall thereafter, and not before, be authorized to proceed with the work, and shall complete the same within the time prescribed by the permit.
- (d) No person shall dig up or scrape up and carry away any gravel, dirt, rocks or sand from any street, lane or alley of the village, without the permission of the proper authority of the village, pursuant to this article.

(Code 1967, § 17-5)

Sec. 14-62. - Supervision of work.

All disturbances, digging up or excavation of streets, avenues, sidewalks, pavements or sidewalk pavements shall be made under the supervision and direction of the building inspector.

(Code 1967, § 17-6)

Secs. 14-63—14-75. - Reserved.

DIVISION 4. - SIDEWALK MAINTENANCE

Sec. 14-76. - Duty of adjoining property owners, etc., to keep sidewalks in repair; notice from village requiring sidewalk repair.

- (a) It shall be unlawful for any owner, occupant or agent thereof of any walk, sidewalk or curb i.e., the owner, occupant or agent thereof of any property to which such sidewalk is contiguous, to allow such walk or sidewalk to remain in such condition as to be dangerous or detrimental to citizens or their property.
- (b) In case the surface of any walk or sidewalk in the village shall become so uneven as to make walking over it dangerous or detrimental, or if the curbing shall become decayed, worn out or broken, it shall be the duty of the mayor to notify the owner, and if the owner cannot be served to notify the occupant, and if there is no occupant then to notify the agent of the owner of the property to which the sidewalk is contiguous, to repair such walk or sidewalk.
- (c) The notice required in this section shall be in writing and shall allow such owner, agent or occupant thirty (30) days in which to repair such walk or sidewalk; shall describe the walk, sidewalk or curb to be repaired; and shall set forth that such walk, sidewalk or curb shall be repaired, if surface work is to be done, with the same material as such walk, sidewalk or curb was originally constructed; and if curbing is to be put in, with concrete; and shall be served, returned and filed in the office of the village clerk.

(Code 1967, § 17-3)

Sec. 14-77. - Duty of owners, etc., of adjoining property to maintain sidewalks free of trash, weeds, etc.

The owners, occupants or agents thereof of property in the village shall maintain sidewalks adjacent and contiguous to such property free and clear of rubbish, trash, gravel, sand, weeds and other growth.

(Code 1967, § 17-4)

Secs. 14-78—14-90. - Reserved.

ARTICLE III. - PARADES AND DEMONSTRATIONS^[2]

Footnotes:

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Cross reference— Public safety department, § 2-126 et seq.

Sec. 14-91. - Permit required for parades and demonstrations.

- (a) It shall be unlawful for any person to organize and conduct a parade or other demonstration on the public streets or property of the village, without first obtaining a permit from the village clerk, who shall advise the chief of police when such permit is issued.

- (b) Such permit shall be applied for and obtained at least one (1) week prior to the parade or demonstration and shall state the time, place, nature of the demonstration and the expected number of persons participating.

(Code 1967, § 17-1)

Secs. 14-92—14-100. - Reserved.

ARTICLE IV. - TREES PROTECTION PROGRAM^[3]

Footnotes:

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Editor's note— Ord. No. 356, § 2(Exh. A), adopted Nov. 19, 2015, amended former Art. IV, §§ 14-101—14-118, in its entirety to read as herein set out. Former Art. IV pertained to trees and shrubbery and derived from Ord. No. 274, §§ 4—17, adopted Dec. 19, 1991; Ord. No. 291, §§ 1—5, adopted in March 1999.

Cross reference— Landscaping plans, § 6-77; zoning regulations, § 16-1 et seq.

Sec. 14-101. - Intent.

It is the intent of the regulations contained in this article to provide guidelines, controls, and standards for the planting, maintenance, removal, and protection of trees within the village. The goal of these regulations is to enhance and insure the continuance of the existing tree canopy within the village so as to provide the community with the health, safety, conservation of energy, general psychological, aesthetic and economic benefits that can be derived therefrom.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-102. - Definitions.

The following words and phrases shall have the meanings ascribed to them in this section:

Branch collar. Trunk tissue that forms around the base of a branch.

Caliper. A tree measurement that takes the diameter of the tree at twelve (12) inches above the rootball.

Crown. Main part of the branching of a tree.

Crown width. The width of the crown at its widest point measured on a plane parallel to the ground.

Developed property. Property containing a structure which has a valid certificate of occupancy.

Drop-crotch pruning. A specific type of pruning designed to properly reduce the size of trees within the current national arborist association standards, or any subsequent amendments thereto.

Effectively destroyed. The cutting, trimming, or damaging of a tree's trunk, branch or root system to the extent that the tree is no longer viable.

Equivalent replacement. A tree or trees, which due to condition, size and value, is determined by the beautification committee to be equivalent to the tree to be removed.

Equivalent value. An amount of money which reflects the replacement cost of a tree, (including transportation, planting and initial maintenance to insure survival) based on its size, condition and location, following the international society of arbors tree evaluation formula and the market value.

Large tree. A tree with a mature height of forty (40) feet or more in height, a mature canopy wider than 22 feet, and a mature root system wider than fifteen (15) feet.

Maintenance and protection. Includes all operations of: pruning, spraying, injecting, fertilizing, treating, bracing, doing surgery work, cutting above or below the ground.

Medium tree. A tree with a mature height of between twenty-six (26) feet and thirty-nine (39) feet, a mature canopy between fifteen (15) feet and twenty-two (22) feet, and a mature root system between ten (10) feet and fifteen (15) feet.

National Arborist Association standards. Those standards as from time to time revised and provided by the National Arborist Association and as prepared by the Standard Practice Committee of the National Arborist Association, Inc., a professional trade association founded in 1938.

Nonviable. Not capable of existing and continuing to provide the biological or aesthetic qualities associated with a healthy functioning tree resource.

Protected tree. A tree with a minimum caliper of four inches in diameter, one foot above the ground of the species Live Oak, Laurel Oak, Gumbo Limbo, Royal Poinciana, and Mahogany.

Pruning. The removal of plant parts, dead or alive, in a careful and systematic manner so as not to damage other parts of the plant.

Public area. Includes all public ways, parks and other lands owned or leased by the village.

Public nuisance. Any tree or shrub or part thereof growing upon private or public property which is determined by the staff forester or public works department representative to endanger the health, safety and general welfare of the village.

Public way. Includes all public streets, roads, boulevards, alleys and sidewalks.

Root ball. A group of roots extending from the base of a tree trunk that must be intact when relocating a tree in order to promote survival of the tree.

Shade tree. Any tree with a mature crown width that is at least two-thirds ($\frac{2}{3}$) of the tree's mature height.

Shrubbery. A low woody plant, bushy with branches.

Small tree. A tree with a mature height of twenty-five (25) feet or smaller, a mature canopy smaller than fifteen (15) feet, and a mature root system smaller than ten (10) feet.

Specimen tree. A tree with any individual trunk which has a caliper larger than twelve (12) inches. All nuisance trees listed in section 14-106(b)(5) are specifically determined to not to be specimen trees.

Swale area. The unpaved portion of property whether a publicly dedicated right-of-way or not, lying between the edge of the street pavement and the nearest property line, or that portion of a right-of-way reserved by the Village for non-traffic purposes at the present time.

Topping. A process to flat-cut the top of a tree or to remove more than one-third of the tree crown; hatracking.

Tree. Any self-supporting woody plant, usually having a single woody trunk; a potential caliper of two (2) inches or more, and a more or less distinct and elevated head with many branches.

Tree removal. Directly or indirectly cutting down, destroying, removing or relocating or effectively destroying (through damaging, trimming, authorizing or allowing the cutting down, destroying, removing, moving or damaging of) any tree.

Tree service/arborist. Any person, company, corporation or service which, for compensation or a fee, performs tree maintenance and protection.

Trim. To reduce, cut or diminish a tree or parts of a tree or plant without altering the natural shape.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-103. - Authority to supervise, enforce, modify and supplement regulations.

- (a) *Beautification committee.* The beatification committee shall supervise and make recommendations regarding the implementation and enforcement of the regulations contained in this article. The beatification committee will submit recommendations pertaining to implementation, amendments, and modifications of the provisions of this chapter to the village council for their consideration. All applications for tree planting or removal within the scope of this chapter shall be submitted to, and reviewed by the beatification committee. The beatification committee shall review any applications for planting or removal of trees within the scope of this chapter and submit their recommendations to the village council for final approval. The beautification committee may refer violations to the code enforcement department for investigation and prosecution.
- (b) *Code enforcement.* It shall be the duty of the code enforcement department to investigate, enforce, and prosecute violations of the regulations contained in this chapter before the code enforcement master. The code enforcement department may prosecute violations in conjunction and cooperation with the beatification committee, staff forester, public works department, or on its own initiative.
- (c) *Village council.* The village council will receive and review all recommendations referred to it by the beatification committee pertaining to any permit to plant or remove any tree within the scope of the article, and any amendment or modification of existing regulations or the addition of supplementary regulations. The discretion and decision to approve or deny any permit to plant or remove any tree within the scope of this article and all discretion and decisions regarding the enactment of any amendment, modification, or supplementary regulations under this chapter shall remain within the sole and exclusive legislative jurisdiction of the village council.
- (d) *Public works department.* It shall be the duty of the staff forester or a designated representative of the public works department to supervise compliance with the regulations contained herein and to cooperate with, and assist, the code enforcement department in the prosecution of any regulation violation cases.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-104. - Trees, shrubbery, and plants located in swale areas, village property; exception.

All trees located in a swale area, as defined in this article, are deemed for the purpose of this article as being the property of the village.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-105. - Applicability to utility companies.

Except as may be provided in the "Booklet of Minutes and Agreements" established jointly by Florida Power and Light Company and the ad hoc tree committee on September 23, 1991 (a copy of which is permanently maintained in the public works department and is available for review and inspection), the provisions of this article are applicable to all utility companies.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-106. - Emergency provisions.

In the event that it is believed that any tree in the Village is in such a hazardous condition so as to endanger the public health, safety and general welfare unless it is immediately removed, the chairperson of the beautification committee, or their designee, may verbally authorize the removal of such tree following a personal inspection of the subject tree without having to secure a removal permit as required by this chapter. In addition, the provisions and requirements of this article may be temporarily stayed by a majority vote of the village council following the occurrence of a hurricane, tornado, flood, or other natural disaster.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-107. - Tree planting standards—Prohibitions.

The following standards shall be applicable to the planting of all trees on any village owned or controlled property or right-of-way.

- (a) All trees to be planted shall have symmetric crown form, a single trunk or leader, good crown color, no insect damage, well spaced branches, healthy new leaves, healthy well attached bark, strong crotches, adequate root space, and be of at least Florida No. 1 quality.
- (b) All large trees and palm trees to be planted in the swale will be not less than a three-inch caliper and twelve (12) feet tall with one (1) main trunk free of branches between five and six (6) feet above ground. All small trees to be planted will be not less than two (2) inches in diameter measured six (6) inches above the ground, and six (6) feet tall.
- (c) All trees shall be planted in line or in an aesthetically ordered manner, except as may be delineated on a landscape plan authorized and approved by the village council. Large trees shall be planted at a spacing of between twenty-five (25) and thirty-five (35) feet from each other; small trees and palm trees shall be planted at a spacing of between ten (10) and twenty (20) feet from each other.
- (d) No tree shall be planted under pre-existing utility lines that will grow to a mature height of more than twenty-four (24) feet or within twenty (20) feet of such line.
- (e) No tree shall be planted closer than ten (10) feet from any fire plug or fire hydrant.
- (f) No tree, shrub, or plant shall be planted which obstructs the view of or interferes with any traffic control device.
- (g) No tree, shrub, or plant shall be planted which obstructs the view of any intersection when viewed from any road.
- (h) No tree, shrub, or plant shall be planted which obstructs any sidewalk.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-108. - Obstruction of sidewalks prohibited.

No person owning or occupying property within the Village shall permit any tree, shrub or plant growing thereon to grow out over the public sidewalk. It shall be the responsibility of the owner or occupant of the property to keep all trees, shrubs or plants cut back or trimmed so that the same does not interfere with or impede the use of the abutting public sidewalk by persons using same. There shall be overhead clearance from the grade level of the sidewalk free from limbs or other plant obstructions of not less than ten (10) feet.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-109. - Obstruction of traffic devices, intersections, view prohibited.

No person owning or occupying property within the Village shall permit any tree, shrub, or plant to obstruct or obscure the vision of any traffic control device or intersection. All tree, shrubs, and plants shall be kept pruned so that no branches or part of the tree, shrub, or plant in any manner obstructs or hinders the view of the traffic control traffic sign or device, or the view of any intersection as seen from any roadway.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-110. - Root system causing damage prohibited.

No person owning or occupying property within the Village shall plant any tree, shrub, or plant the root system of which will undermine or otherwise damage sidewalks, curbs, driveways or streets.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-111. - Swale area, public right-of-way permit required.

No person shall plant, cut, prune, trim, hatrack, injure, or remove or in any other way deface any tree, shrub, or plant, or disturb or interfere in any way with the roots of any tree, shrub, or plant in or on any public property, public right-of-way or swale area, without the express written consent from the village.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-112. - Commercial tree service or arborist service license, permits required, compliance with National Arborist Association standards.

Any person, entity or corporation which, for compensation or fee, plants, transplants, removes, prunes, trims, repairs, or performs surgery upon a tree whether or not in addition to other services, shall comply with the terms and conditions of this article. All such persons, entities or corporations by performing services of such nature within the village agree to be bound by the terms and conditions of this article. Such persons, entities or corporations shall be responsible for having on display any permit required hereunder. Any such person, entity or corporation shall, in performing its work, comply with the standards of the National Arborist Association. All tree services or arborists performing services within the village shall be duly licensed and insured as required from time to time by Dade County.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-113. - New construction, inspection prior to issuance of certificate of occupancy.

Prior to the issuance of any certificate of occupancy a representative of the beautification committee shall visit the subject property to determine that in fact the provisions of this article have been complied with. Should a finding be had that this article has not been complied with, a certificate of occupancy shall not be issued regarding the property wherein the violation occurred. The beautification committee shall immediately issue a statement indicating remedial action to be taken by the property owner and deliver same to the property owner or its agent. The property owner or its agent may apply to the council for consideration of the matter de novo and for issuance of the certificate of occupancy.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-114. - National arborist association standards to be followed for pruning, trimming, cutting, maintaining, removing or planting.

When the village or any person subject to this article or otherwise takes any action to prune, trim, cut, maintain, remove, or plant, such pruning, trimming, cutting, maintaining, removing or planting trees or shrubbery shall be done in accordance with the standards of the National Arborist Association, trimming from December 1 to March 1 of any year, although not a specific violation of this article, is discouraged.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-115. - Liberal construction, conflicts with Dade County ordinance.

This article shall be liberally construed to effectuate the intent and purpose of enhancing and insuring the continuance of the existing tree canopy within the village so as to provide the community with the health, safety, conservation of energy, general psychological, aesthetic and economic benefits that can be derived therefrom. Nothing contained in this chapter shall in any way limit the requirements as described from time to time by any tree ordinance of Miami-Dade County, which is applicable to the village.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-116. - Public property planting and maintenance standards.

Notwithstanding anything contained in this section to the contrary, the village shall have the sole and exclusive right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, avenues, lanes, squares and public areas, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of all public grounds. The village may remove or cause to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature constitutes a public nuisance or is injurious to sewers, electric lines, gas lines, water lines or other public improvements, or is afflicted with any injurious fungus, insect or pest. This section does not prohibit the planting of trees adjacent to any public ways by adjacent property owners provided that the trees are properly placed and maintained in accordance with the tree planting and maintenance standards contained herein.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-117. - Tree pruning standards.

The following standards shall be applicable to the pruning of all trees within the village.

- (a) The pruning practices established by the current National Arborist Association standards, or any subsequent amendments thereto, which are specifically incorporated herein. Copies of these pruning standards shall be maintained by the public works department and made available for inspection, review and copying.
- (b) All branches too large to be supported by one (1) hand shall be precut to avoid splitting or tearing of the bark. Where necessary, proper equipment should be used to lower large branches or stubs to the ground.
- (c) All cuts shall be made as close as possible to the trunk or parent limb without cutting into the branch collar or leaving a protruding stub. Drop-crotch pruning for overhead utility lines shall be followed.
- (d) All cut limbs shall be removed from the crown upon completion of the pruning.

- (e) Not more than one-quarter ($\frac{1}{4}$) of the total crown area should be removed at a single operation. A cutting exceeding this standard will be considered to have rendered the tree nonviable, and shall be presumed, subject to rebuttable evidence to the contrary, to be effective destruction of the tree.
- (f) All trees located on property which are adjacent to any village roadway, alley or other vehicular right-of-way shall have their branches pruned to a clearance height of between twelve (12) and sixteen (16) feet, so that no branches shall interfere with the vehicular use of said areas.
- (g) Permit form: Attached hereto and made a part hereof as Exhibit "A" is a form of permit required for pruning the following species of trees:
 - (1) Royal Poinciana
 - (2) Crape Myrtle
 - (3) Horseradish Tree
 - (4) Mexican Frangipani
 - (5) Chinese Tallow Tree
 - (6) Silver Trumpet Tree/Tree of Gold
 - (7) Pink Trumpet Tree
 - (8) Cane Palm
 - (9) Princess Palm/Hurricane Palm
 - (10) Spindle Palm/Pignut Palm
 - (11) Solitaire Palm
 - (12) Macarthur Palm
 - (13) Manila Palm/Christmas Palm
- (h) Permit: No pruning, hatracking or removal or pruning of the species of trees as specified in subsection (g) above shall be done without the owner of the property wherein the work is to be performed obtaining a permit from the village in the form as set forth in Exhibit "A."
- (i) Permit fees: For each tree that is being pruned, or removed, as described in subsection (b) above, a permit fee of ten dollars (\$10.00) shall be paid, provided the minimum permit fee is twenty-five dollars (\$25.00).
- (j) Exception—Dead tree removal: A dead tree can be removed without a permit, provided inspection of the condition of the tree is made prior to its removal by a beautification committee member.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Editor's note— Exhibit "A" to Exhibit A of Ord. No. 356 is not set out herein but is available at the office of the village clerk.

Sec. 14-118. - Tree removal standards.

The following standards shall be applicable to the removal of trees within the village:

- (a) It shall be unlawful for any person, directly or by direction, to cut down, destroy, remove or move, or to effectively remove or destroy, through the infliction of damage, any tree within the Village without first obtaining a permit from the building and zoning department.

- (b) The following tree removal activities are specifically exempted from the permit, relocation, replacement and mitigation requirements of this chapter:
- (1) Removal of trees within the property boundaries of developed property which are not specimen or protected trees.
 - (2) Removal of trees for the construction of a new principal single-family residence for an owner/builder so long as the trees are not specimen or protected.
 - (3) Removal of any dead tree.
 - (4) Removal of trees in emergency situations. (See section 14-109 of this chapter for applicable guidelines and provisions).
 - (5) Removal of any of the following nuisance tree species:

SPECIES	COMMON NAME
a. <i>Acacia auriculiformis</i>	Earleaf Acacia
b. <i>Albizzia lebbbeck</i>	Woman's Tongue
c. <i>Araucaria heterophylla</i>	Norfolk Island Pine
d. <i>Bambusa vulgaris</i>	Tree Bamboo
e. <i>Bischofia javanica</i>	Bischofia
f. <i>Brassaia actinophylla</i>	Schefflera
g. <i>Casuarina</i> spp.	Australian Pine
h. <i>Cupaniopsis anacardiodes</i>	Carrotwood
i. <i>Enterolobium cyclocarpum</i>	Ear Tree
j. <i>Eucalyptus</i> spp	Eucalyptus
k. <i>Ficus</i> spp.	Ficus
l. <i>Grevillea robusta</i>	Silk Oak
m. <i>Hibiscus tiliaceus</i>	Mahoe

n. Melaleuca quinquenervia	Melaleuca
o. Metopium toxiferum	Poison Wood
p. Psidium quajava/littorale	Guava
q. Ricinus communis	castorbean
r. Sapium sebiferum	Chinese Tallow Tree
s. Schinus terebinthifolius	Brazilian Pepper
t. Syzygium curaini	Java Plum
u. Thespesia populnea	Mahoe
v. Citrus series.	

- (6) Removal of any tree which has been destroyed or effectively destroyed by an act of God, or by acts outside the control of the legal, beneficial or equitable owner of the real property in which the tree is located, and which acts could not have been prevented by the exercise of reasonable care.
- (7) Removal of any tree by the village in accordance with the authority and administrative discretion provided in section 14-108.
- (8) Removal of specimen or non-specimen mango and avocado trees.
- (c) All of the aforesaid trees listed in subsection (b) of this section which are dead or effectively destroyed, shall be removed by the property owner, without any permit, relocation, replacement or mitigation requirement, so as to protect adjacent properties from damage that may be caused by the dead or effectively destroyed trees.
- (d) Application for removal permits. Tree removal permits are required for the removal of any specimen tree not specifically exempted under subsection (b) of this section. The village shall provide permit application forms which shall be used by permit applicants. An owner, agent of the owner, or lessee of a property may apply for a tree removal permit. If the permit applicant is a lessee, or agent of the owner, a statement from the owner of the property, indicating that the owner has no objection to the proposed tree removal, shall be submitted with the application. The permit applicant shall submit to the village a completed application form which shall include the reasons for the requested removal, the tree size and tree caliper, and the common name of the tree to be removed. Permit application forms shall be accompanied by two diagrams showing the location of the tree to be removed which are subject to review and approval by the

beautification committee and public works department. The diagrams shall include the locations of all existing tree resources and all proposed structures or utilities which may require removal or relocation of trees. If the submitted diagrams do not provide sufficient information to determine which trees will be affected by proposed development, the department may require that a tree survey of the site be prepared and submitted to the department for review.

Whenever a permit is required hereunder, the person seeking the permit shall fill out an application with the village clerk indicating:

- (1) The name and address of the person requesting the permit.
 - (2) The name and address of the person and any entity with whom he or she is employed, if such employment is related to the subject matter of this article.
 - (3) The nature of the services to be performed and the commencement date and completion date.
 - (4) If a tree service or arborist is performing the services, the full name and address of such person or entity, together with copies of its permits, license and certificate of insurance.
 - (5) If replacement or replanting is required, a drawing indicating the location of the replaced or replanted tree and a statement setting forth the species of the tree replaced or removed.
 - (6) If removal is required, a drawing of the location of the tree being removed and its species.
- (e) Permit fees. The village shall, by resolution, establish a fee schedule for all matters relating to tree removal, relocation, replacement, monetary contribution, and all administrative reviews necessitated thereby.
- (f) Review and evaluations of removal permit applications. A review of each completed tree removal permit application shall be conducted by the beautification committee. This review and all actions taken by the department shall be conducted under a standard of reasonableness using the best available practices from biology, botany, forestry, landscape architecture and other relevant fields.

(1) *Specimen trees standards.*

- a. *Specimen trees application.* Specimen trees shall be preserved whenever reasonably possible. Upon receipt of an application to remove a specimen tree, the department shall consider the following factors in evaluating said application:
 1. Size and configuration of the property.
 2. Size and configuration of any proposed development.
 3. Location of the tree relative to any proposed development.
 4. Whether or not the tree can be preserved under the proposed plan or any alternative plan.
 5. Health, condition and aesthetic qualities of the tree.
 6. Whether the tree poses a threat to persons or property.
- b. *Alternate plans.* If, upon review of the aforesaid factors, the department determines that a specimen tree cannot reasonably be preserved under the proposed plan, then the applicant shall provide an alternate plan which shall include preservation of the specimen tree and design alterations consistent with the scope and intent of the initially proposed plan. Alterations consistent with the scope and intent of the initially proposed plan may include, but shall not be limited to:
 1. An adjustment of building orientation on a site.
 2. An adjustment of lot lines within a site proposal for more than one (1) lot when said adjustment will not cause an unreasonable loss of usable space. An

applicant shall have the burden of proof in the determination of what constitutes an unreasonable loss of usable space.

- c. *Specimen tree relocation.* If preservation of the specimen tree and any alternate design consistent with the scope and intent of the initial plan are mutually exclusive, then the department may issue a permit to relocate the specimen tree. If the tree removal permit requires relocation, then the applicant shall be required to relocate the tree in a manner that will maintain the canopy within the general vicinity of the removal on the same property or to relocate the tree to a location within the village designated by the beautification committee.
- d. *Removal of specimen trees.* If relocation of the specimen tree is not feasible, due to the size, health, location, species or any other factor, then a permit may be issued for removal, and tree replacement shall be required. The beautification committee shall designate an equivalent replacement tree or trees and a location within the village for its planting.
- e. *Replacement requirements for specimen trees.* In the event that replacement is not feasible on-site, then alternative off-site replacement shall be required, or, as a last alternative, there shall be a contribution made to the village tree trust fund for the full equivalent value of the replacement tree or trees. This trust fund shall be administered by the village council so as to insure the prompt planting of replacement trees in an area as closely adjacent as is reasonably possible to the area from which a specimen tree was properly removed.
- f. *Black olive tree removal and replacement.* The following policies, standards, and requirements shall be applicable to the removal and replacement of black olive trees in the village:
 - 1. *Private property removal.* If a property owner wishes to remove a black olive tree from a private property site, the existing tree removal procedures in this article must be followed. Mitigation will be in accordance with existing rules and standards if the tree is not causing damage to the subject property. However, the amount of mitigation required may be reduced by one-half (&half) if, in the sole discretion of the beautification committee, the subject tree is causing damage to the subject property. In all cases, the property owner shall bear the full cost of removal and disposal of the removed tree. As a condition of removal, the property owner and the village must reach an agreement for the replacement of the removed black olive tree with a village approved tree or for the payment of the required mitigation amount into the village tree fund prior to the removal of the specimen tree.
 - 2. *Public property removal.* If a property owner requests the removal of a black olive tree from the village swale or right-of-way property, the decision regarding the removal shall be at the sole and exclusive discretion of the beautification committee. If removal is permitted, the village shall pay for the cost of removal and disposal of the removed tree, and the adjacent property owner shall be required to pay one-half (&half) of the required mitigation for the removed tree prior to the removal of the tree. In addition to the foregoing, the established policy of the village in regard to the removal of black olive trees from public property mandates that no more than ten (10) such trees shall be removed during any fiscal year of the village and that the Village will replace all removed trees during its annual black olive tree replacement program.
- g. *Exemption from relocation replacement and contribution requirements.* An applicant may be exempt from the relocation, replacement and contributions previously set forth herein under the following conditions:
 - 1. Subject to the review and approval of the village beautification committee, and upon the submittal of a statement from a landscape architect registered in the

state, or from an accredited graduate forester, which indicates that a specimen tree, due to disease, condition, growth habit or any other reasonable botanical factor, does not provide the aesthetic or environmental contribution associated with the specimen tree. Said statement shall include the specific reason(s) for the claimed exemption.

2. When preservation of the specimen tree would cause an unreasonable risk to existing property.
 3. When a site contains more than one (1) specimen tree, and fifty (50) percent or more of the existing specimen trees and at least fifty (50) percent of the existing specimen tree canopy area is preserved.
 4. When a specimen tree is determined by the beautification committee to be undesirably located or that it may pose a threat to other adjacent specimen trees.
- h. *Replacement tree* . The village may require a replacement tree in addition to the permit, should in the discretion of the beautification committee and council such replacement be necessary. Whenever a replacement tree is required hereunder, or whenever a property owner seeks to plant a tree in a swale area nearest to his property line, the following species shall be used:
1. Mahogany.
 2. Live Oak.
 3. Satin Leaf.
 4. Geiger Tree.
 5. Cypress.
 6. Laurel Oak.
 7. Pigeon Plum.
 8. Royal Poinciana.
 9. Crape Myrtle.
 10. Horseradish Tree.
 11. Mexican Frangipani.
 12. Silver Trumpet Tree/Tree of Gold.
 13. Pink Trumpet Tree.
 14. Princess Palm/Hurricane Palm.
 15. Spindle Palm/Pignut Palm.
 16. Macarthur Palm.
 17. Manila Palm/Christmas Palm.
- (2) Compliance. If the application for a tree removal permit is filed in conjunction with the construction and development of real property within the village, no certificate of occupancy shall be provided to the subject property until all applicable provisions of this article have been met.
- (g) Townhouses, condominiums or duplexes. A tree removal permit is required for the removal of any tree within the common or private area of an apartment, townhouse or duplex, unless said tree is an exempt tree as herein set forth. A letter from the association president of the condominium seeking removal must accompany the permit application.

- (h) Tree protection requirements during construction. During site development, protection requirements for trees designated for preservation shall include, but not be limited to, the following:
- (1) Protective barriers shall be placed around each tree, cluster of trees, or the edge of the preservation area no less than six (6) feet (in radius) from the trunk of any protected tree cluster or preservation area unless a lesser distance is specified by the beautification committee. Protective barriers shall be a minimum of four (4) feet above ground level and shall be constructed of wood, plastic or metal, and shall remain in place until development is completed and the beautification committee has authorized their removal. Protective barriers shall be in place prior to the start of any construction.
 - (2) Understory plants within protective barriers shall be protected.
 - (3) No oil, fill, equipment, building materials or building debris shall be placed within the areas surrounded by protective barriers, nor shall there be disposal of any waste materials such as paints, oils, solvents, asphalt, concrete, mortar or any other materials harmful to trees or understory plants within the areas surrounded by protective barriers.
 - (4) Trees shall be braced in such a fashion as to not scar, penetrate, perforate or otherwise inflict damage to the tree.
 - (5) Natural grade shall be maintained within protective barriers. In the event that the natural grade of the site is changed as a result of site development, such that the safety of the tree may be endangered, tree wells or retaining walls are required.
 - (6) Underground utility lines shall be placed outside the areas surrounded by protective barriers. If said placement is not possible, disturbance shall be minimized by using techniques such as tunneling.
 - (7) Fences and walls shall be constructed to avoid disturbance to any protected tree. Post holes and trenches located close to trees shall be dug by hand and adjusted as necessary, using techniques such as discontinuous footings, to avoid damage to major roots.
- (i) Tree relocation standards. The relocation of any tree shall be consistent with the following minimum standards:
- (1) Trees other than palms:
 - a. Tree roots shall be severed in such a manner as to provide a root ball which is sufficient to ensure survival of the tree when relocated. A sufficiently-sized planting hole shall be provided at the relocation site to ensure successful regrowth.
 - b. After root severing, adequate time shall be allowed prior to replanting to ensure survival of the tree(s). After root severing and prior to relocation, tree(s), shall be watered a minimum of twice weekly. After relocation, tree(s) shall be watered a minimum of four (4) times each week until the tree(s) are established.
 - c. During removal and transportation of the tree, the root ball and vegetative portion of the tree shall be protected from damage from wind or injury. Any tree that dies or becomes nonviable within twelve (12) months of relocation shall be replaced.
 - (2) Palm trees.
 - a. A ball of earth at least one (1) foot from the base of the tree shall be moved with the tree.
 - b. All fronds on Sable Palms shall be trimmed around the bud prior to relocation.
 - c. The bud shall be protected from damage or injury during relocation.
 - d. Any palm that dies or becomes nonviable within twelve (12) months of relocation shall be replaced.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-119. - Tree abuse prohibited.

It shall be unlawful to abuse any protected or specimen trees located within the Village of Virginia Gardens or any other trees located on Village owned or controlled property or right-of-way. Any abused tree shall be subject to replacement in addition to any penalty under the Village Code.

(a) The following acts shall constitute tree abuse:

- (1) Damage inflicted upon any part of a tree, including its root system, by machinery, mechanical devices, soil compaction, excavation, vehicle accidents, chemical applications, changes to the natural grade, fire, storage or disposal of toxic or hazardous substances, acts of animals.
- (2) Damage inflicted to or cutting upon a tree which permits infection or pest infestation.
- (3) Cutting upon any tree which destroys its natural shape.
- (4) Topping; hatracking.
- (5) Bark removal of more than one-third (1/3) of the tree caliper.
- (6) Tearing and splitting of limb ends or peeling and stripping of bark.
- (7) Use of climbing spikes.
- (8) Fastening any sign, rope, wire or object by nail, staple, chemical substance, or other adhesive means to, through or around any tree.
- (9) Any pruning in violation of the practices established by the National Arborist association.
- (10) Any act that would cause a tree to become nonviable.

(b) Any act of tree abuse that renders a protected or specimen tree to be nonviable or effectively destroyed shall constitute "effective removal" and require full compliance with section 14-106.

(c) Responsibility for tree abuse or any other violation of this article shall be upon:

- (1) The property owner on whose property the tree that was subject to tree abuse is located; and
- (2) The actual person committing the tree abuse; and
- (3) If the person committing the tree abuse was in his/her course of employment for a business entity, then such business entity shall likewise be responsible.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-120. - Enforcement

Any violations of the provisions and requirements of this article shall be prosecuted on behalf of the village by the code enforcement department before the code enforcement board in accordance with its rules, regulations, and procedures as mandated in this Code of Ordinances or in accordance with the rules, regulations and procedures. Nothing contained herein shall in any way limit any other department of Village government from participating and assisting in the prosecution of violations of this article.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Sec. 14-121. - Relief from provisions of this article.

Any person or entity subject to this article may see relief from any portion hereof by appearing before the council and showing good cause or hardship. After hearing from the applicant, the council shall render its decision which shall be final.

Any person, entity or corporation who violates the terms or conditions of this article shall be subject to a fine imposed either by the code enforcement board, the county court or other court of jurisdiction of up to five hundred dollars (\$500.00) for each tree subject to this article. The fine may be imposed upon any or all responsible persons as defined in this article.

(Ord. No. 356, § 2(Exh. A), 11-19-15)

Chapter 15 - UTILITIES^[1]

Footnotes:

--- (1) ---

Cross reference— Administration, Ch. 2; zoning and planning board, § 2-91 et seq.; enforcement by the code enforcement board, § 2-71 et seq.; buildings and building regulations, Ch. 6; finance and taxation, Ch. 8; public service tax on utilities, § 8-26 et seq.; health, sanitation and nuisances, Ch. 9; solid waste regulations, Ch. 13; zoning, Ch. 16.

State Law reference— Malicious injury, destruction, removal or interference with water supplies, hydrants, etc., F.S. § 806.10.

ARTICLE I. - IN GENERAL

Sec. 15-1. - Use of village water and sewer system required.

All persons, either householders or business or otherwise, within the limits of the village are hereby required to use the water and sewer system owned and operated by the village, where the water or sewer lines are reasonably available to the user of such services.

(Code 1967, § 19-6)

Secs. 15-2—15-25. - Reserved.

ARTICLE II. - WATER^[2]

Footnotes:

--- (2) ---

Cross reference— Public service tax on utilities, § 8-26 et seq.

DIVISION 1. - GENERALLY

Secs. 15-26—15-35. - Reserved.

DIVISION 2. - WATER SYSTEM

Sec. 15-36. - Connections to water system—Fees; performance of work.

When it shall be found necessary to tap into or connect with the pipe line or lines of the village in order to supply any customer with water, a tapping or connecting charge shall be assessed and set by resolution of the village council and are on file in the village clerk's office. Larger size meters will be installed for a sum equal to the cost thereof to the village, the estimated amount of which is to be paid in advance of installation, or the customer or consumer may have a qualified contractor perform the tappage, subject to the final approval of the building inspector.

(Code 1967, § 19-7)

Cross reference— Buildings and building regulations, Ch. 6.

Sec. 15-37. - Same—Additional waterlines.

- (a) Owners of property within the village who require additional waterlines to service such property shall pay the entire cost of the installation of such waterlines from the existing waterline to the point furthest of the property line under development and in the size as determined by the village engineer; provided, that if construction of such property has commenced before March 13, 1975, in accordance with duly issued permits, the cost of the installation of such waterline shall be as prescribed in (b) below.
- (b) Owners of property within the village whereon construction has commenced as aforesaid who require additional waterlines to service such property shall pay all costs necessary for the construction and installation of an eight-inch waterline from the existing waterline to the furthest point of the property line under development. If the village engineer requires such installation to consist of piping of more than eight (8) inches in diameter, the additional cost for the pipe and fitting for a larger line will be paid for by the village.

(Code 1967, § 19-7.1)

Sec. 15-38. - Same—Meter to be furnished by village; deposit required.

- (a) The water department shall furnish the water meter where the same is not provided by the contractor or builder; and prior to the installation of the meter or the connection with the water system, each consumer shall be required to make a deposit with the water department as set by resolution of the village council and are on file in the village clerk's office.
- (b) In the event the billing period consumption of any service may be expected to exceed the deposit, the water department may have the authority to set the deposit amount regardless of meter size. All water meters shall be read quarterly, and all bills for any and all water and garbage/trash collection charges shall be rendered quarterly and shall become due immediately upon receipt. Whenever a consumer shall fail to pay the required deposit within five (5) days from the date of mailing of a notice demanding such deposit, the water service to such consumer shall be disconnected without further notice and shall not be reconnected until the required deposit, together with a reconnection charge has been paid.

(Code 1967, § 19-8)

Sec. 15-39. - Same—Service lines longer than fifty feet.

Whenever, in order to provide water service to a parcel of property, it is necessary to run a service line a distance greater than fifty (50) feet, the cost of such line in excess of fifty (50) feet shall be paid for by the consumer prior to the installation of the meter.

(Code 1967, § 19-9)

Sec. 15-40. - Water rates and charges.

- (a) The rates for water service for all users within the village shall be set by resolution of the village council and are on file in the village clerk's office.
- (b) There shall be included in the charge for water a late charge of ten (10) percent on the unpaid balance if payment is not received and recorded in the clerk's office by the date indicated on the bill as the delinquent date.

(Code 1967, § 19-10)

Sec. 15-41. - Sprinkler systems.

There is established, imposed and prescribed by resolution of the village council the rates and charges for water service when used for sprinkler systems or other fire protection systems in buildings only where the expense of all connections to and extensions from the water mains shall be borne by the consumer which rates are on file in the village clerk's office. Provided, that, with respect to such service, no taps shall be allowed which may be used for other than fire protection purposes, nor shall there be connection with any other source of water, except in case a tank or fire pump is installed as a secondary supply for such fire protection purposes.

(Code 1967, § 19-10.1)

Sec. 15-42. - Billing.

All billing for charges for domestic water consumption and garbage/trash collection shall be payable to the village on a quarterly basis and there shall be a single bill showing such charges.

(Code 1967, § 19-10.2)

Sec. 15-43. - Late charge for delinquent payment.

If any bill rendered hereunder shall not be paid prior to the past-due date indicated on the bill, there shall be added to that bill for administrative or other expenses a late charge of ten (10) percent of the total amount due as reflected in such bill. All late charges and all returned check charges shall be considered water department revenue.

(Code 1967, § 19-11)

Sec. 15-44. - Collection by lien.

In the event that any water or garbage/trash bill is not paid within sixty (60) days from the date thereof, then, in addition to all other remedies available to the village, the village shall have the right to place a lien upon the property for the amount due, together with the applicable late charge. Such lien shall accrue interest at the lawful rate and the village shall be entitled to attorneys' fees for the placing of such lien on such property, the removal of such lien from such property upon payment or the foreclosure of such lien, should same be necessary. Increased water deposit and/or advance payments on garbage/trash service may be required if an account is in arrears for such sixty-day period or an account has not been timely paid for any three (3) billing periods.

(Code 1967, § 19-12)

State Law reference— Restriction on placing lien on certain property, F.S. § 180.135.

Sec. 15-45. - Unauthorized use, damage, tampering with, etc., of water system.

No person, other than an authorized employee of the water department, shall tamper with or damage in any way or disturb any water meter, meter box or any property of the village used in the operation of the water distribution system, or turn on or turn off water at the meter, disconnect the meter, make any tap into the waterlines of the village or in any way alter the readings recorded on the water meter dial or meters used in the water distribution system of the village.

(Code 1967, § 19-13)

Sec. 15-46. - Presumption in case of unauthorized reconnection.

If water service has been disconnected at any premises and the water meter sealed and thereafter some person, other than an agent or employee of the village, breaks the seal on the meter and restores the water connection, it shall be prima facie evidence that such act was unlawfully done by the head of the family or the head of the business occupying the premises to which water service has thus been restored.

(Code 1967, § 19-14)

Secs. 15-47—15-60. - Reserved.

DIVISION 3. - CONSERVATION

Sec. 15-61. - Definitions.

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

District shall mean the South Florida Water Management District.

Water resource shall mean any and all water on or beneath the surface of the ground, including natural or artificial watercourses, lakes, ponds or diffused surface water, and water percolating, standing or flowing beneath the surface of the ground.

Water shortage condition shall mean a situation occurring when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

Water shortage emergency shall mean that situation when the powers which can be exercised under part II of chapter 40E-21 of the Florida Administrative Code are not sufficient to protect the public health, safety or welfare, or the health of animals, fish or aquatic life or a public water supply or commercial, industrial, agricultural, recreational or other reasonable uses.

(Code 1967, § 19-17)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 15-62. - Intent and purpose.

It is the intent and purpose of this division to protect the water resources of the village from the harmful effects of overutilization during periods of water shortage and allocate available water supplies by assisting the South Florida Water Management District in the implementation of its water shortage plan.

(Code 1967, § 19-16)

Sec. 15-63. - Applicability.

The provisions of this division shall apply to all persons using the water resource within the geographical areas subject to the water shortage or water shortage emergency, as determined by the district, whether from publicly or privately-owned water utility systems, private wells or private connections with surface water bodies. This division shall not apply to persons using treated effluent or saltwater.

(Code 1967, § 19-18)

Sec. 15-64. - Adoption of Florida Administrative Code provisions.

Chapter 40E-21 of the Florida Administrative Code, as the same may be amended from time to time, is incorporated herein by reference as a part of this Code.

(Code 1967, § 19-19)

Sec. 15-65. - Implementation of emergency provisions.

The declaration of a water shortage or water shortage emergency within all or any part of the village by the governing board or the executive director of the district shall invoke the provisions of this division. Upon such declaration, all water use restrictions or other measures adopted by the district applicable to the village, or any portion thereof, shall be subject to enforcement action pursuant to this division. Any violation of the provisions of chapter 40E-21 of the Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this division.

(Code 1967, § 19-20)

Sec. 15-66. - Enforcement.

Every police officer or sheriff having jurisdiction in the area governed by this division shall, in connection with all other duties imposed by law, diligently enforce the provisions of this division. In addition, the village may also delegate enforcement responsibility for this division to agencies and departments of village government or cities in the service areas governed by this division in accordance with state and local law.

(Code 1967, § 19-21)

Sec. 15-67. - Penalties.

(a) Violators of any provision of this division shall be subject to the following penalties:

(1) First violation \$25.00

(2) Second and subsequent violations	Fine not to exceed five hundred dollars (\$500.00) and/or imprisonment in the county jail not to exceed sixty (60) days.
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- (b) Each day in violation of this division shall constitute a separate offense. In the initial stages of a water shortage or water shortage emergency, law enforcement officials may provide violators with no more than one (1) written warning. The village, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this division.

(Code 1967, § 19-22)

Sec. 15-68. - Water service conditioned upon acceptance of provisions.

No water service shall be furnished to any person by a public or private utility unless such person agrees to accept all of the provisions of this division. The acceptance of water service shall be in itself the acceptance of the provisions hereof.

(Code 1967, § 19-23)

Secs. 15-69—15-80. - Reserved.

ARTICLE III. - CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION^[3]

Footnotes:

--- (3) ---

Cross reference— Buildings and building regulations, Ch. 6.

Sec. 15-81. - Definitions.

The following words, terms and 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:

Air gap separation shall mean the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank plumbing fixture, or other device, and the flood level rim of the receptacle. Air gap separation shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel. In no case shall the gap be less than one (1) inch.

Auxiliary supply shall mean any source or system, other than the public water supply, that may be available in the building or premises.

Backflow shall mean the flow, other than the intended direction of flow, of any foreign liquids, gases or substances into the distribution system of a public water supply.

Backflow prevention device shall mean a device to counteract back pressures or prevent back siphonage.

Back pressure shall mean backflow caused by a pump, elevated tank, boiler or other means that could create pressure within the system greater than the supply pressure.

Back siphonage shall mean a form of backflow due to a negative or subatmospheric pressure within a water system.

Cross-connection shall mean any physical arrangement whereby a public water supply is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains or may contain contaminated water, sewage or other waste or liquid of unknown or unsafe quality which may be capable of imparting contamination to the public water supply as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover devices and other temporary or permanent devices through which or because of which backflow could occur are considered to be cross-connections.

Double check valve assembly shall mean an assembly composed of two (2) single, independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and suitable connections for testing the watertightness of each check valve.

Public water supply shall mean any system or water supply intended or used for human consumption or other domestic uses including sources, treatment, storage, transmission and distribution facilities where water is furnished to any community, collection or number of individuals or is made available to the public for human consumption or domestic use, but excluding water supplies serving one (1) single-family residence.

Reduced pressure principle backflow prevention device shall mean a device incorporating two (2) or more check valves, an automatically operating differential relief valve, located between the two (2) checks and two (2) shutoff valves and equipped with necessary appurtenances for testing. The device shall operate to maintain the pressure in the zone between the two (2) check valves less than the pressure on the public water supply side of the device. At cessation of normal flow, the pressure between the check valves shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve shall operate to maintain this reduced pressure by discharging to the atmosphere. When the inlet pressure is two (2) pounds per square inch or less, the relief valve shall open to the atmosphere, thereby providing an air gap in the device.

(Code 1967, § 19-24)

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 15-82. - Implementation of article.

The director of the water department and the water department are hereby directed to implement this article by taking any and all appropriate action necessary, and/or to adopt any and all necessary rules and regulations. The water department of the village shall recognize the varying degrees of hazard and apply the principle that the degree of protection shall be commensurate with the degree of health.

(Code 1967, § 19-25)

Sec. 15-83. - Liberal construction of article.

This article shall be liberally construed as to the minimum requirements for the promotion of the public health.

(Code 1967, § 19-41)

Sec. 15-84. - Cross-connections prohibited.

All cross-connections, whether or not such cross-connections are controlled by automatic devices such as check valves or by hand operated mechanisms such as gate valves or stop cocks are hereby prohibited.

(Code 1967, § 19-26)

Sec. 15-85. - Effect of failure to discontinue cross-connections.

Failure to discontinue the use of any and all cross-connections and to physically separate such cross-connections will be sufficient cause for the discontinuance of public water service to the premises on which the cross-connections exist.

(Code 1967, § 19-27)

Sec. 15-86. - Inspections for and orders to remove cross-connections.

The water department of the village, in cooperation with the appropriate health authorities and/or the local plumbing inspector, shall make periodic inspections of the premises served by the water supply to check for the presence of cross-connection. Any cross-connection found in such inspection shall be ordered removed by the water department. If an immediate hazard to health is caused by the cross-connection, water service to the premises shall be discontinued until it is verified that the cross-connection has been removed.

(Code 1967, § 19-28)

Sec. 15-87. - Backflow prevention devices required.

- (a) Backflow prevention devices shall be installed at the service connection or within any premises where, in the judgment of the water department of the village the nature and extent of the activities on the premises, or the materials used in connection with the activities or materials stored in the premises, would present an immediate and dangerous hazard to health, should a cross-connection occur, even though such cross-connection does not exist at the time the backflow device is required to be installed. This shall include, but not be limited to, the following situations:
 - (1) Premises having an auxiliary water supply, unless the quality of the auxiliary supply is in compliance with applicable federal laws, safety of public water system and is acceptable to the department;
 - (2) Premises having internal cross-connections that are not correctable or intricate plumbing arrangements which make it impracticable to ascertain whether or not cross-connections exist;
 - (3) Premises where entry is restricted so that inspection for cross-connections cannot be made with sufficient frequency or at sufficiently short notice to assure that cross-connections do not exist;
 - (4) Premises having a repeated history of cross-connections being established or reestablished;
 - (5) Premises on which any substance is handled under pressure so as to permit entry into the public water supply or where cross-connections could reasonably be expected to occur. This shall include the handling of process waters and cooling waters;
 - (6) Premises where materials of a toxic or hazardous nature are handled, such that if back siphonage should occur, a serious health hazard may result.
- (b) The following types of facilities will fall into one (1) of the categories in (a) above where a backflow prevention device is required to protect the public water supply. A backflow prevention device shall be installed at these facilities unless the department determines no hazard exists:

- (1) Hospitals, mortuaries and clinics;
- (2) Laboratories;
- (3) Piers and docks;
- (4) Sewage treatment plants;
- (5) Food or beverage processing plants;
- (6) Chemical plants using a water process;
- (7) Metal plating industries;
- (8) Petroleum processing or storage plants;
- (9) Radioactive materials processing plants or nuclear reactors;
- (10) Others specified by the department.

(Code 1967, § 19-29)

Sec. 15-88. - Determination of type of backflow prevention devices.

- (a) The type of protective device shall be determined by the water department and shall depend on the degree of hazard which exists.
- (b) Air gap separations or a reduced pressure principle backflow prevention device shall be installed where the water supply may be contaminated with sewage, industrial waste of a toxic nature or other contaminant which would cause a health or system hazard.
- (c) In the case of a substance which may be objectionable but not hazardous to health, a double check valve assembly, air gap separation or a reduced pressure principle backflow prevention device shall be installed.

(Code 1967, §§ 19-30—19-32)

Sec. 15-89. - Installation requirements for backflow prevention devices.

- (a) Backflow prevention devices shall be installed at the meter or at a location designated by the water department of the village. The device shall be located so as to be readily accessible for maintenance and testing, and where no part of the device will be submerged.
- (b) Backflow prevention devices shall be installed by the water department of the village or an approved contractor, at the customer's expense.

(Code 1967, §§ 19-33, 19-34)

Sec. 15-90. - Approval by water department of backflow prevention devices.

- (a) Any protective device required in this article shall be a model approved by the water department of the village. A double check valve assembly or a reduced pressure principle backflow prevention device will be approved if it has successfully passed the performance test of the University of Southern California Engineering Center or other testing laboratories satisfactory to the water department.
- (b) Backflow prevention devices shall be annually inspected and tested by the water department or an approved appointed inspector at the customer's expense, or more often where successive inspections indicate repeated failure. The device shall be repaired, overhauled or replaced at the customer's expense whenever it is found to be defective. Inspections, tests and repairs and records

thereof, shall be performed by the water department or an approved individual at the customer's expense.

- (c) Failure of the customer to cooperate in the inspections, maintenance or testing of backflow prevention devices required in this article shall be grounds for the termination of water service to the premises.

(Code 1967, §§ 19-35—19-37)

Sec. 15-91. - Enforcement.

It shall be the duty of the director of the water department of the village to enforce this article. All violations of this article shall be promptly reported to the director of the water department.

(Code 1967, § 19-38)

Sec. 15-92. - Violations and remedies.

- (a) In case any consumer uses a water system in violation of this article, in addition to other remedies, the village may institute appropriate actions or proceedings to prevent such unlawful use or other violations, to restrain, correct or abate such violations, to prevent the occupancy of the building wherein the water system is being utilized or to prevent any illegal act, conduct, business or use in or about such premises. Each day such violation continues shall constitute a separate violation. The director of the water department may call upon the chief of police to furnish him with the necessary police personnel to carry out his orders with regards to the enforcement of any of the provisions of this article.
- (b) It is unlawful for the owner or general agent of a building or premises to permit the violation of any provision of this article. It is unlawful for the lessee or tenant of the building or premises to violate this article. It is unlawful for any other person to commit, take part in or assist in any such violation or to maintain any building or premises in which any such violation shall exist.

(Code 1967, §§ 19-39, 19-40)

Secs. 15-93—15-110. - Reserved.

ARTICLE IV. - SANITARY SEWER SYSTEM^[4]

Footnotes:

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Cross reference— Buildings and building regulations, Ch. 6; public service tax on utilities, § 8-26 et seq.

Sec. 15-111. - Construction of private sewer lines and systems at owner's expense.

The village will allow the construction of private sewer lines and systems connecting to the City of Miami Springs; provided, that the conditions of this article are met and timely application has been made.

(Code 1967, § 19-15)

Sec. 15-112. - Plans for construction to be reviewed by village engineer.

Prior to the installation of any private sewer line or system within the village utilizing the village's rights-of-way, the owner of the property to be serviced shall have his plans for the construction of such sewer line or system reviewed by the village engineer, who shall recommend whether the design of such line or system is in the best interest of the village. This report shall be submitted to the village council, who shall then by affirmative vote either deny or approve such sewer line or sewer system extension.

(Code 1967, § 19-15(a))

Sec. 15-113. - Owner to obtain permission to tie into sewage system of Miami Springs.

Prior to the construction of any such sewer line or sewage system, the owner of the property to be serviced by such sewer line or system shall obtain from the City of Miami Springs permission to tie into that city's sewage system and obtain a letter from such city evidencing such intention.

(Code 1967, § 19-15(b))

Sec. 15-114. - Work to be done in accordance with plans and permits.

All work done in accordance with accepted plans for the projected sewer lines or sewage system shall be done in accordance with duly issued permits, and as-built drawings shall be delivered to the village engineer upon completion of construction.

(Code 1967, § 19-15(c))

Sec. 15-115. - Inspection and approval by village engineer upon completion of work.

Such sewer line or sewage system, upon completion of construction, shall be constructed in a manner acceptable to the village engineer. If such sewer line or sewage system is not acceptable, the owner of the property to be serviced shall have the responsibility of making such sewer line or sewage system acceptable to the village engineer.

(Code 1967, § 19-15(d))

Sec. 15-116. - Evidence of owner's ability to maintain line or system required.

Prior to the use of such sewer line or sewage system, the owner of the property to be serviced shall furnish to the village satisfactory evidence of his ability to maintain such system in accordance with acceptable standards of maintenance.

(Code 1967, § 19-15(e))

Sec. 15-117. - Lines and systems to be built at owner's sole expense; owner to receive compensation from additional persons connecting.

All such sewer lines and systems shall be built at the sole expense of the owner who shall be entitled to receive fair and just compensation from additional property owners who elect to connect to such sewer line. The amount of compensation payable in this regard shall not exceed the respective owner's proportionate share of the installation cost.

(Code 1967, § 19-15(f))

Sec. 15-118. - Owner to agree to indemnify village for liability resulting from construction.

Prior to the installation of any such sewer line or sewerage system, the owner of the property requesting such installation shall provide for the village an indemnification and hold harmless agreement, providing for indemnification to the village in the event that the construction of such sewer line or system or the operation thereof results in any liability whatsoever to the village. This agreement shall be in recordable form and be a covenant running with the land.

(Code 1967, § 19-15(g))

Sec. 15-119. - Owner to give village option to purchase.

Upon completion of the sewer line or sewage system, the owner shall, for a consideration of one dollar (\$1.00) give to the village the right to purchase such sewer line or sewage system at any time after three (3) years from completion of such sewer line or sewage system. Such option shall be for a period of twenty (20) years at a fixed purchase price of one dollar (\$1.00) and constitute a covenant running with the land and be in recordable form.

(Code 1967, § 19-15(h))

Sec. 15-120. - Application for construction.

Applications for the privilege to construct sewer lines or sewage systems utilizing rights-of-way of the village shall be in the form of a letter from the owner of the property to be serviced by such sewer line or his agent written to the village clerk requesting a hearing before the village council at the next regular council meeting.

(Code 1967, § 19-15(i))

Sec. 15-121. - Owner to agree to tie into village system without compensation if village system built.

In the event the village does undertake to build a sewer system, the owner of the property serviced by a private sewer line as applied for pursuant hereto shall agree to tie into such sewer system without any compensation whatsoever payable to such owner.

(Code 1967, § 19-15(j))

Chapter 16 - ZONING AND LAND DEVELOPMENT REGULATIONS^{[1](#)}

Footnotes:

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Editor's note— Set out herein are the Zoning and Land Development Regulations for the Village of Virginia Gardens, as adopted by Ord. No. 354, § 1(Exh. A), Feb. 21, 2013. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. The style of headings, capitalization, expression of numbers, and subsection numbering/lettering has been unchanged from the original

ordinance. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.

ARTICLE I. - GENERAL PROVISIONS

1.1 - SHORT TITLE

This code shall be entitled the "Zoning and Land Development Regulations" and may be referred to herein as the "Code."

1.2 - AUTHORITY

This Code is enacted pursuant to the requirements and authority of Section 163.3202, Florida Statutes, (the Local Government Comprehensive Planning and Land Development Regulation Act), the City of Virginia Gardens Charter effective in 1947.

1.3 - GUIDE FOR USERS

1.3.1 The Revision of the Zoning Code

- A. This integrated Code is enacted to replace the zoning code with amendments that had been adopted piecemeal over the years and which were scattered throughout Chapter 16. Those scattered and in some instances redundant regulations lacked coordination and were difficult to find, administer and understand. The replacement of those regulations with a code whose topics are clearly identified and sequenced should greatly enhance the efficiency and effectiveness of land development regulation by the City.
- B. The Village of Virginia Gardens which may be referred to herein as the "Village" is essentially "built-out". This Code applies to renovations and code enforcement as well as to new developments or constructions.
- C. Where cited in parenthesis, previous ordinances are not rescinded and supplement in greater detail this Code.
- D. Fee amounts have been deleted from this Chapter and are now given elsewhere in the Code of the Village of Virginia Gardens.

1.4 - FINDINGS

1.4.1 Specific Findings Relating to the Various Subject Areas of this Code The Village of Virginia Gardens Council finds:

A. Administration

- 1. A single set of administrative procedures for making all land use decisions promotes efficiency, predictability, and citizen participation.
- 2. All development proposals should undergo a development review process to assure compliance with the requirements of this Code.
- 3. A mandatory pre-application concept review conference requirement enhances communication and understanding between the City and the Developer thereby improving the efficiency of the development review process.
- 4. Developments of large potential impact on the community should go through a more rigorous review process than others.
- 5. All administrative decisions should be supported by a record with written findings to assure accountability and efficient appellate review.

6. A quick, efficient and non-political avenue of appeal should be available for all ministerial and administrative decisions.
7. Enforcement of development orders and the provisions of this Code should be through procedures that are efficient, effective and consistent with the code enforcement procedures established by state law.

1.5 - INTENT

With regard to this Code in general, its provisions shall be construed and implemented to achieve the following intentions and purposes of the Village of Virginia Gardens Council:

- A. To establish the regulations, procedures and standards for review and approval of all proposed development in the Village.
- B. To foster and preserve public health, safety, comfort and welfare, and to aid in the harmonious, orderly, and progressive development of the Village in accordance with the Comprehensive Plan.
- C. To adopt a development review process that is:
 1. Efficient, in terms of time and expense;
 2. Effective, in terms of addressing the natural resource and public facility implications of proposed development; and
 3. Equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners, and consideration of the interests of the citizens of the Village.
- D. To implement the Village of Virginia Gardens Comprehensive Plan.
- E. To provide specific procedures to ensure that development and modification orders and permits are conditioned on the availability of public facilities and services that meet level of service requirements (concurrency).

1.6 - RELATIONSHIP TO COMPREHENSIVE PLAN

Florida law (Section 163.3194(1)(b), Fla. Stat. 1985) requires that all land development regulations be consistent with the comprehensive plan of the enacting local government. A land development regulation "shall be consistent with the comprehensive plan if the land uses, densities and intensities, or other aspects of development permitted by such order or regulation are compatible with and further the objectives, policies, land uses, and densities and intensities in the comprehensive plan and if it meets all other criteria enumerated by the local government." This adopted Code meets this standard of consistency.

1.7 - APPLICABILITY

1.7.1 General

The provisions of this Code shall apply to all development in the Village of Virginia Gardens. No development shall be undertaken without prior authorization pursuant to this Code.

A. Consistency With Plan

Nothing in this Code shall be construed to authorize development that is inconsistent with the Village Comprehensive Plan.

1.8 - INCORPORATION BY REFERENCE

1.8.1 Technical Construction Standards

The Florida Building Code, the Public Works Manual of Miami-Dade County, and the standards of Miami-Dade County Water and Sewer Department, all of the latest issue, are here incorporated into this Code by reference.

1.8.2 Maps

The Village of Virginia Gardens Future Land Use Map, of latest issue, is here incorporated into this Code by reference and is attached as Appendix I. There is no zoning map.

1.8.3 Other Materials

Reserved.

1.9 - RULES OF INTERPRETATION

1.9.1 General

In the interpretation and application of this Code all provisions shall be:

- (1) considered as minimum requirements;
- (2) liberally construed in favor of the objectives and purposes of the Village; and
- (3) deemed neither to limit nor repeal any other powers granted under state statutes.

1.9.2 Responsibility for Interpretation

In the event that any question arises concerning the application of regulations, performance standards, definitions, development criteria, or any other provision of this Code, the Village Chief Building Official in consultation with Village Attorney Engineer shall be responsible for interpretation and shall look to the Village Comprehensive Plan for guidance. Responsibility for interpretation by the said official shall be limited to standards, regulations and requirements of this Code, but shall not be construed to include interpretation of any technical codes adopted by reference in this Code, nor be construed as overriding the responsibilities given to any council, board or official named in other sections or articles of this Code.

1.9.3 Specifically

The language of this Code shall be interpreted according to the following rules unless that interpretation would be inconsistent with the manifest intent of the Village of Virginia Gardens Council.

A. Computation Of Time

The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or legal holiday, that day shall be excluded.

B. Delegation Of Authority

Whenever a provision appears requiring the head of a department or some other Village officer or employee to do some act or perform some duty, it is to be construed to authorize delegation to professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.

C. Gender

Words importing the masculine gender shall be construed to include the feminine and neuter.

D. Number

Words in the singular shall include the plural and words in the plural shall include the singular.

E. Shall, May

The word "shall" is mandatory; "may" is permissive.

F. Tense

Words used in the past or present tense include the future as well as the past or present.

G. Written, In Writing

The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

H. Year

The word "year" shall mean a calendar year, unless otherwise indicated.

I. Day

The word "day" shall mean a calendar day, unless a working day is indicated.

J. Boundaries

Interpretations regarding boundaries of land use districts shall be made in accordance with the following:

1. Boundaries shown as following or approximately following any street shall be construed as following the centerline of the street.
2. Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.

1.10 - SEVERABILITY

If any section, subsection, paragraph, sentence, clause, or phrase of this Code is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of this Code shall continue in full force and effect.

1.11 - CERTIFICATION OF RE-OCCUPANCY

1.11.1 Single-family and duplex dwellings certificate of re-occupancy

1. No person, firm, corporation, or entity of any kind may buy, sell, convey, or otherwise transfer any single-family or duplex dwelling unit within the Village of Virginia Gardens without first obtaining a re-occupancy certificate issued by the director of code enforcement or the director's designee.
2. No person, firm, corporation, or entity of any kind may close on the transfer or conveyance of any single-family or duplex dwelling unit owned by such person, firm, or corporation or entity, without first disclosing by written notice to the buyer, grantee, or transferee the fact that a certificate of re-occupancy is required by the code enforcement ordinance of the Village.

1.11.2 Application

Application for a certificate of re-occupancy shall be made by the owner, seller or other transferor, or the designated agent of such individuals or entities, upon a form provided by the Village.

1.11.3 Fee

The applicant shall pay a fee of \$50.00 for the inspections and Certificate of Re-Occupancy.

1.11.4 Issuance of Certificate

Within ten (10) days of receipt of the application and fee, an inspector shall inspect the dwelling and, if such dwelling is found to be in compliance and in conformance with the provisions of the applicable zoning, occupancy, and safety code, rules, and regulations, a certificate of re-occupancy shall be issued.

If the dwelling is not in compliance or conformance with such provisions, the director or the director's designee shall indicate by itemized list the corrective action required, and the certificate of re-occupancy shall be withheld unless and until the applicable provisions of the zoning and occupancy code are complied with, to the reasonable satisfaction of the director or the director's designee.

1.11.5 Contents of Certificate

The certificate of re-occupancy, if issued, shall state that the director or the director's designee inspected the dwelling and has determined that the dwelling is in compliance with the applicable provisions of the zoning, occupancy, and safety code, rules and regulations of the Village pertaining solely to the requirement that each individual unit is used, designed, or intended to be occupied and used for a single-family residential purpose only, as required by the zoning and occupancy code, rule, or regulations.

1.11.6 Restriction on Inspection

Information gained or conditions observed in the course of an inspection conducted pursuant to the authority of this "certificate of re-occupancy" ordinance shall not be utilized by the code enforcement officers of the Village as the basis for issuing, initiating, or otherwise pursuing any code enforcement violation proceedings other than for a violation of the relevant provisions of the health, safety, zoning, use, and occupancy code, rules, or regulations pertaining to single-family use and occupancy directly addressed by the inspection made under this ordinance. This shall not preclude other enforcement action brought upon the basis of information gained or violation observed by other lawful means.

1.11.7 Authority to Settle

The Chief Building Official in consultation with Village Attorney shall have authority to enter into Settlement Agreements and issue Conditional Certificates of Re-Occupancy which shall be executed by the Buyer and Seller. A Conditional Certificate of Re-Occupancy shall not be issued where life-safety violation exist on the property.

1.11.8 Penalty

Any person who violates any of the provisions of this Section 1.11 shall be subject to a fine which shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and which shall not exceed five hundred dollars (\$500.00) per day for a repeat violation.

1.11.9 Cost

If it is determined that a violation of this Section 1.11 was committed, all cost associated with the investigation and enforcement proceedings shall be assessed against the violator.

1.11.10 Liens

Any fine imposed for violation of this Section 1.11 or any assessment of costs related to the enforcement proceedings shall constitute a lien against the property of the violator, in accordance with Section 162.09(3), F.S.

ARTICLE II. - DEFINITIONS

2.1 - GENERAL RULE OF CONSTRUCTION

Unless specifically defined below, words or phrases used in this Code shall be ascribed a meaning which they have in common usage and which gives this Code its most reasonable application. (See Article VII for definitions of Signs and Billboards.)

2.1.1 Terms Defined

abut: To physically touch, or having property or district lines in common. accessory structure: A subordinate structure detached from but located on the same lot as the principal structure, the use of

which is incidental and accessory to that of the principal structure. Where there is no main building on the lot, an accessory structure shall be considered a main structure for the purpose of the height, area and bulk regulations.

accessory use: A use incidental to, and on the same lot as, a principal one.

adversely affected person: Any person who is suffering or will suffer an adverse effect to an interest protected or furthered by the Village Comprehensive Plan, including but not limited to interests related to health and safety; police and fire protection services; densities or intensities of development; transportation facilities; recreational facilities; health care facilities, equipment or services; and environmental or natural resources. The alleged adverse effect may be shared in common with other members of the community at large, but must exceed in degree the general interest in community good shared by all persons.

adult living facilities: Any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, whether 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.

alley: A minor way not intended for general traffic circulation which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

alteration, structural: Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders; provided however, that the superficial enhancement of the exterior of an existing building for the purpose of beautifying and modernizing shall not be considered a structural alteration (See South Florida Building Code, Sec. 104). *amusement arcade:* A building or a part of a building in which five or more pinball machines, videogames, or other similar player-operated amusement devices are installed.

antenna (See also satellite dish antenna and tower): Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or attached to exterior of any building.

basement: A story partly underground and having at least one-half of its height above the average adjoining grade. A basement shall be termed a cellar when more than one-half of its height is below the average adjoining grade. A basement or cellar shall be counted as a story if vertical distance from the average adjoining grade to the ceiling is over five feet.

bedroom: The term bedroom includes any room used principally for sleeping purposes, an all-purpose room, a study, a den, provided that no room having less than 100 square feet of floor area shall be considered a bedroom.

buffer area (See also screening): A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

place of religious assembly: A tax-exempt institution that people regularly attend to participate or hold religious services and meetings.

club, private: Buildings and facilities or premises used or operated by an organization or association for some common purpose, such as, but not limited to, a fraternal, social, educational or recreational purpose, but not including clubs organized primarily for profit or to render a service which is customarily carried on as a business. Such organizations and associations shall be incorporated under the Laws of Florida as a nonprofit corporation and such corporation's major purpose shall not be for the purpose of serving alcoholic beverages to its members and others.

Code: This unified Zoning and Land Development Code which replaces the previous Zoning Ordinance.

commercial vehicle: Any of various automobile vehicles, one ton or over designed for transporting heavy loads.

conditional use: A use that, owing to some special characteristics attendant to its operation or installation is permitted in a district subject to approval by the Village Council, and subject to special

requirements, different from those usual requirements for the district in which the conditional use may be located.

condominium: An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

congregate living facility: A state-licensed residential facility for four or more elderly persons (age 60 or older), their spouses, or surviving spouses, within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments, and counseling.

cul-de-sac: A local "dead-end" street, one end of which is closed and consists of a circular or "T" turn-around whose dimensions are in accordance with Miami-Dade County subdivision regulations.

development: The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any excavation, landfill, or land disturbance; and any use or extension of the use of land.

district: A zone or portion of the territory of the Village, exclusive of streets and other public ways, within which certain uses of land, premises, and buildings are not permitted and within which certain yards and open spaces are required and certain height limits are established for buildings.

drive-thru facility: Any portion of a building or structure from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle during such business transactions.

dry cleaning, pick-up agency: A business where clothes are delivered by the customer to be dry cleaned at other premises and returned for pick up by the customer.

dwelling: A building or portion of thereof, designed or used exclusively for residential occupancy, but not including hotels, motels, mobile homes, and boarding and lodging houses.

dwelling, multifamily: A building or portion of thereof used for occupancy of three or more families living independently of each other and containing three or more dwelling units, including what is commonly known as an apartment building.

dwelling, single-family, attached (group, row, duplex, and townhouses): One of two or more residential buildings having a common or party wall separating dwelling units.

dwelling, single-family, detached: A residential building containing not more than one dwelling unit not attached to another dwelling unit, and not including modular or pre-manufactured homes. Homes must be site built.

dwelling unit: One or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping.

easement: The right of a person, government agency, or public utility company to use public or private land owned by another for a specific purpose.

facade: The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

family: One or more persons living together as a single housekeeping unit and doing their cooking on the premises, provided that a group of four or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

family day care home: A private residence where care, protection, and supervision are provided, for a fee, at least twice a week, and fewer than 24 hours a day for children from at least two unrelated families, whether or not operated for profit. A family day 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:

- A. A maximum of four children from birth to 12 months of age.
- B. A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.
- C. A maximum of six preschool children if all are older than 12 months of age.
- D. A maximum of six children if no more than five are preschool age and, of those five, no more than two are under 12 months of age.

fence: A structure, other than building, which is a barrier and used as a boundary or means of protection or confinement.

floor area, gross: The sum of the areas of all floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Code, or any such floor space intended and designed for accessory heating and ventilating equipment. It shall include the horizontal area at each floor level devoted to stairways and elevator shafts.

floor area ratio (FAR): A measurement of the intensity of development on a site. Determined by dividing the total gross floor area of all floors of all buildings on a lot by the gross area of that lot.

footprint: The outline or shape of a building or structure as determined on a horizontal plane three feet above the grade. It shall not include protruding upper stories, roof overhangs, balconies, signs and the like.

frontage: The length of any one property line of a site, which property line abuts a legally accessible street right-of-way. Typically the narrow side of the lot is the front, or the side on which the address runs.

garage, private: A building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

grade: The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

green space: An open space area not occupied by any structure or impervious surface. group child care center: A building or structure where care, protection, and supervision are provided, for a fee, on a regular schedule, at least twice a week and fewer than 24 hours a day to at least seven and no more than 12 children, including children of the adult provider.

guest house: Living quarters within a detached or semi-detached accessory building located on the same lot with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters and not rented or otherwise used as a separate dwelling.

height of building: The vertical distance from the grade to (a) the highest point of a flat roof; (b) the deck line of a mansard roof; (c) the average height between eaves and ridge for gable, hip, and gambrel roofs; or (d) the average height between high and low points for a shed roof.

home occupation: An occupation, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood and which is carried on by a person residing in the dwelling unit involving only written correspondence, telephones, computers or other common office equipment. A home occupation shall preclude any business operation which requires or permits customers or patrons to visit the dwelling.

impervious surface: Any material that substantially reduces or prevents the infiltration of water into the ground. Impervious surface shall include compacted graveled/paved driveways and parking areas, but not include porous paving materials in accordance with the South Florida Building Code.

kennel: An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling animals is conducted as a business.

laundry, self-service: A business that provides washing, drying, and/or ironing machines for laundry, to be used by customers on the premises.

laundry, pick-up agency: A business where clothes are delivered by the customer to be laundered at other premises and returned for pick up by the customer.

lot: A parcel of land occupied, or intended to be occupied, by a building and its accessory buildings, or by group dwellings and their accessory buildings, together with such open spaces as are required, having at least the minimum area required for a lot in the district in which such lot is located and having its principal frontage on a public street or public way.

lot area: The area of horizontal plane bounded by the vertical planes through front, side, and rear lot lines.

lot coverage: Determined by dividing that area of a lot which is occupied or covered by the total horizontal projected surface of all buildings, including covered porches, driveways and accessory buildings, excluding up to two feet of roof overhang or projection and awnings or canopies, by the gross area of that lot.

lot line, front: The front of a lot shall be construed to be the portion nearest the street. For corner lots, the lot front shall be the narrowest portion abutting the street unless determined otherwise by the Village Chief Building Official in consultation with Village Attorney, or the street side on which the address runs.

lot record (See also lot): A lot that is part of a subdivision, the plat of which has been recorded in the office of the Clerk of the Circuit Court of Miami-Dade County, or any parcel of land, whether or not part of a subdivision, that has been officially recorded by a deed in the office of the clerk, provided such lot was of a size that met the minimum dimensions for lots in the district in which it was located at the time of recording or was recorded prior to the effective date of land use in the area where the lot is located.

manufactured housing: A factory-built, single-family structure that is manufactured under the authority of 42 U.S.C. Sec. 5401, the National Manufactured Home Construction and Safety Standards Act, is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

mobile home: A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

nightclub: A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing is permitted and includes the term "cabaret". Also, bar, restaurant, coffee house, or similar establishment where a dance floor or entertainment is provided.

nonconforming building: Any building that does not meet the limitations on building size and location on a lot, for the district in which such building is located, or for the use to which such building is being put.

nonconforming lot: A use or activity which lawfully existed prior to the adoption, revision, or amendment of this Code, but which fails by reason of such adoption, revision, or amendment to conform to the use district in which it is located.

nonconforming use: A lawful use of land that does not comply with the use regulations for its land use district but which complied with applicable regulations at the time the use was established.

open space, common: Open space within or related to a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of a development.

parcel: A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

parking space: An area on a lot and/or within a building intended for the use of temporary parking of a motor vehicle. This term is used interchangeably with parking stall. Each parking space must have a means of access to a public street. Tandem parking stalls in single-family detached, single-family attached, and townhome residential uses shall be considered to have a means of access to a public street.

performance guarantee (Also maintenance guarantee): A financial guarantee to ensure that all improvements, facilities, or work required by this ordinance will be completed in compliance with the ordinance, regulations, and the approved plans and specifications of a development, or to maintain the same.

professional and semi-professional offices or operation: Shall mean any person or entity engaging in, conducting, managing or carrying on any professional, semi-professional, or clerical operation which provides or renders services to the public or business entities, and which does not sell, trade, transfer, deliver, or otherwise deals in any goods, wares, and merchandise. This definition includes, but is not limited to, operations which generally engage in the following: Accountants, Bookkeeping, and Tax preparation; Attorneys and legal services; Real Estate; Mortgage; Insurance; Property Management; Medical and Physicians; Advertising, Promotional, Public Relations, Media Relations, and Marketing; Architects, Engineers, and Contractors; Employment or Personnel Services; Investigation and Security Services; Consultants, and subject to special exception by the Village Council, any other business, operation, or use which is generally compatible with the operations, uses, or businesses listed may be permitted upon a determination by the Village Council that the proposed operation or use is generally within or similar to the categories of the permitted uses and is otherwise compatible with the permitted uses.

recreational and camping equipment: Travel and camping trailer, truck trailer and motor travel home, designed and used as temporary living quarters for recreation, camping or travel use.

restaurant, drive-thru: An establishment that delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

retail or general business establishment: Shall mean any person or entity engaging in, conducting, managing or carrying on any business operation which markets, sells, delivers, transfers, or otherwise deals in goods, wares, and merchandise for purchase, delivery, or transfer to the public or end user from the licensed premises. This definition includes, but is not limited to, any business, occupation, or operations that engaging in the following types of business: Laundry, Dry Cleaning, Pharmaceutical, Hardware, Sporting Goods, Firearms, Ammunition, Pawn Shops, Check Cashing, Car Rental, Auto Supplies, Auto Service, Auto Sales, Bakeries, Restaurant, (not to include a cafeteria type operation primarily serving the office building where it is located/operated), Liquor or Alcoholic Beverages, Florists, Clothing or Apparel, Jewelry, Pets and Pet Supplies, Supermarkets or Food Stores, Adult Entertainment or Services, Adult or Child Day Care, Surgical Center, Furniture Store, Electronic or Electronic Goods, and subject to special exception by the Village Council, any other business, operation, or use which is generally compatible with the operations, uses, or businesses listed may be permitted upon a determination by the Village Council that the proposed operation or use is generally within or similar to the categories of the permitted uses and is otherwise compatible with the permitted uses.

right-of-way: A strip of land occupied or intended to be occupied by a street, crosswalk, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

satellite dish antenna (See also antenna and tower): A round, parabolic antenna intended to receive signals from orbiting satellites and other sources. Noncommercial dish antennas are defined as being less than four meters in diameter.

screening (See also buffer area): The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features which shall be maintained in an opaque condition.

service station: Any premises where gasoline and Other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body work are conducted.

setback: The minimum horizontal distance between the lot or property line and the nearest front, side, or rear line of the building (as the case may be), including terraces or any covered projection thereof, excluding steps.

shopping center: A grouping of retail business and service uses on a single site with common parking facilities.

sidewalk cafe: An area adjacent to and directly in front of a street-level eating or drinking establishment and located within the sidewalk area of the public right-of-way and used exclusively for dining, drinking, and pedestrian circulation. The encroachment area of a sidewalk cafe may be separated from the remainder of the sidewalk by railings, fencing, or landscaping planter boxes or a combination thereof.

sign: See Article VII.

site, generally: Any tract, lot or parcel of land that is in one ownership, or in diverse ownership but contiguous, and which are to be developed as a single unit, subdivision, or project.

site plan: A document or group of documents containing sketches, text, drawings, maps, photographs, and other material intended to present and explain certain elements of a proposed development, including physical design, siting of buildings and structures, interior vehicular and pedestrian access, the provision of improvements, and the interrelationship of these elements.

story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be counted as a story if its ceiling is over five feet above the average level of the finished ground surface adjoining the exterior walls of such story.

street, local residential: A street that has the sole purpose of providing frontage for service and access to residential lots. These streets carry only traffic having either destination or origin on the street itself within residential neighborhoods. The elimination of through traffic and the geometric design of the street are means to promote safety and to create a desirable residential neighborhood.

street, residential collector, N.W. 66th Avenue and N.W. 41st Street: A street that conducts and distributes traffic between other residential streets of lower order in the streets hierarchy and higher order arterial roads, highways or major activity centers.

street, County minor arterial, Curtiss Parkway (N.W. 57th Avenue, Red Road): A residential collector right-of-way, partially within the Village.

street, principal arterial, N.W. 36th Street (S.R. 948): A roadway of unusually high volume of traffic that provides access for local traffic within southern areas of the Village.

subdivision: The division of any tract or parcel of land, including frontage along an existing street or highway, into two or more lots, plots, or other divisions of land for the purpose, whether immediate or future, of building development for rental or sale, and including all changes in street or lot lines.

swale area: A low-lying area of land. That unpaved portion of property, whether a publicly dedicated right-of-way or not, lying between the edge of the street pavement and the nearest property line, or that portion of a right-of-way reserved by the Village for non-traffic purposes.

tower (See also antenna and satellite dish antenna): A structure or antenna situated on a nonresidential site, that is intended for transmitting or receiving television, radio, or telephone communications, excluding those used exclusively for dispatch communications.

truck, commercial: See "commercial vehicle."

variance: A relaxation of the technical regulations of the code where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions

or the situation of the applicant, a literal enforcement of this code would result in unnecessary and undue hardship and the relaxation would be consistent with the surrounding uses and development standards.

warehouse: A building whose sole permitted use is for the storage, distribution or shipping of goods.

yard: Any open space located on the same lot with a building, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted in these regulations. The minimum depth or width of a yard shall consist of the horizontal distance between the lot line and the nearest point of the foundation wall of the main building.

yard, front: A yard extending along the full width of a front lot line between side lot lines and from the front lot line to the front building line in depth. Front-yard depth shall be measured at right angles to the front line of the lot.

yard, rear: A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building. Rear-yard depth shall be measured at right angles to the rear line of the lot.

yard, side: A yard lying between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or in the absence of either of such front or rear yards, to the front or rear lot lines. Side-yard width shall be measured at right angles to side lines of the lot.

yard, street side: A yard lying between the side line of the lot, adjacent to a right of way, and the nearest line of the building and extending from the front yard to the rear yard, or in the absence of either of such front or rear yards, to the front or rear lot lines. Side-yard width shall be measured at right angles to side lines of the lot.

zero lot line: The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

ARTICLE III. - LAND USE: TYPE, DENSITY, INTENSITY

3.1 - GENERAL

The purpose of this Article is to describe the specific uses and restrictions that apply to Land Use Districts in the Land Use Element of the Comprehensive Plan. These regulations are intended to allow development and use of property only in compliance with the goals, objectives, and policies of the Village as expressed in the Village Comprehensive Plan.

3.2 - LAND USE DISTRICTS

Land use districts for the Village are established in the Comprehensive Plan, Future Land Use Element, including a Future Land Use Map. There is no zoning map. The land use classifications (categories) defined in the Future Land Use Element of the Village Comprehensive Plan and delineated as districts in the Future Land Use Map shall be the determinants of permissible activities on any parcel in the jurisdiction. These land use districts are established for the purpose of protecting, promoting, and improving the public health, safety, comfort, order, appearance, convenience, and general welfare of the community. These districts control the location of uses and regulate the location, height, and bulk of buildings hereinafter erected or structurally altered for such uses; to control population density and the intensity of use of lot areas; and to require adequate yards and other open spaces surrounding such buildings.

3.2.1 Schedule of Districts and Densities

In accord with the Comprehensive Plan, the Village is hereby divided into the following Land Use Districts:

A. Single Family Residential (RU)

Single-family detached units at a density up to 6.0 units per acre.

B. Medium Multiple Family Residential (MER)

Multi-family units at a density up to 12 units per acre.

C. Multiple Family Residential (MFR)

Multi-family units at a density up to 30 units per acre. Floor area ratios will be incorporated.

D. Restricted Commercial (RCU)

Office uses and light retail uses that are compatible with nearby housing. Housing is also permitted.

E. General Commercial (GCU)

A broader range of office and retail uses than Restricted Commercial category but no heavy, highway or distributor kinds of uses.

F. Institutional (IU)

A range of schools, churches, municipal buildings and public utility installations.

G. Recreation/Open Space (POS)

Parks and open space. This category includes the Village recreational field.

3.2.2 Application of District Regulations

Except as hereinafter otherwise provided the following is prohibited:

- A. No building shall be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be designed, used, or intended to be used for any purpose or in any manner other than as permitted in the district in which the building or land is located.
- B. No building shall be erected, reconstructed, or structurally altered to exceed in height the limit hereinafter designated for the district in which the building is located.
- C. No building shall be erected, no existing buildings shall be moved, altered, enlarged, or rebuilt, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the yard, lot area, and building location and bulk regulations hereinafter designated for the district in which the building or open space is located.
- D. No yard or other open space provided around any building for the purpose of complying with the provisions of this chapter shall be considered as providing a yard or open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

3.3 - USES ALLOWED IN LAND USE DISTRICTS

3.3.1 General

This part defines and describes the uses allowed within each land use district described in the Comprehensive Plan and this Code. A use similar to that given may be acceptable. If the use is similar but not specified, special application must be made for exception, site plan review and public hearing. Certain uses listed under each category are allowed only if special supplemental site design standards are met. These supplemental standards are contained in the Article VI (Development Design and Improvement Standards) of this Code.

3.3.2 Allowable Uses Within Each Land Use District

A. Single Family Residential District

- 1. Site-built detached single family dwellings.

2. Accessory uses and structures.
 3. Not to include medical or dental offices.
- B. Medium Multiple Family Residential District
1. Detached single-family dwellings
 2. Detached two-family dwellings (i.e., twin-homes, duplex).
 3. Attached single-family dwellings (i.e., townhomes).
 4. Multi-family dwellings.
 5. Accessory uses and structures.
 6. Outdoor recreational facilities.
 7. Home occupations not to include medical or dental offices.
- C. Multiple Family Residential District
1. Detached single-family dwellings.
 2. Attached single-family dwellings (i.e., townhomes).
 3. Detached two-family dwellings (i.e., twin-homes, duplex).
 4. Multi-family dwellings
 5. Accessory uses and structures.
 6. Outdoor recreational facilities.
 7. Home occupations not to include medical or dental offices.
- D. Restricted Commercial District
1. Professional and semi-professional offices, businesses, and services: accounting; bank and financial establishments; bookkeeping and tax preparation; attorneys and legal services; real estate; mortgage; insurance; property management; medical office; nursing service and physicians; advertising; promotional; public relations; media relations and marketing; architects; engineers and contractors; employment or personnel services; investigation and security services; consultants; photography studios; government offices.
 2. Accessory uses include: off-street parking.
 3. Special exception uses include: mixed-use residential when located on second story; any other business, operation, or use which is generally within the listed categories and is compatible with the operations, uses, or businesses listed, based upon a determination by the Village Council that the proposed operation or use is generally within or similar to the categories of the permitted uses, is otherwise compatible with the permitted uses, and will not have an adverse effect on the neighbors.
- E. General Commercial District
1. Business and office uses: bank and financial establishments; retail stores; cafeterias, restaurants and lounges; supermarkets; theaters; arcades and indoor recreation centers; offices; hotels and motels; travel agencies; commercial or trade schools; fraternal lodges; funeral homes; garden and building supply; shopping centers; veterinary clinics without outside kennels; plant nurseries; professional offices; medical and dental offices or clinics; fitness centers and health clubs.
 2. Accessory uses include: off-street parking and loading.
 3. Special exception uses include: private schools; religious institutions; nursing homes; uses permitted in Restricted Commercial District; towers or antenna; fast food drive-thru establishments; group child care centers.

F. Institutional District

1. Governmental administration n buildings.
2. Places of religious assembly and other houses of worship.
3. Public or non-profit educational or cultural facilities.
4. Town or public meeting halls.
5. Public service facilities including: library; post office.
6. Police, fire and rescue stations.
7. Accessory uses and structures.

G. Recreation/Open Space District

1. Outdoor public recreational uses include but not limited to: picnicking; jogging; cycling; playgrounds; ball fields; ball courts; swimming pools; cultural facilities.
2. Accessory uses and structures.
3. Passive scenic areas.

ARTICLE IV. - ACCESSORY STRUCTURES AND USES

4.1 - PURPOSE

The purpose of this Article is to regulate the installation, configuration, and use of accessory structures, and the conduct of accessory uses, in order to ensure that they are not harmful either aesthetically or physically to residents and surrounding areas.

4.2 - ACCESSORY STRUCTURES

4.2.1 General Standards and Requirements

Any number of different accessory structures may be located on a parcel, provided that the following requirements are met:

- A. There shall be a permitted main use building, in use on the parcel, located in full compliance with all standards and requirements of this Code.
- B. All accessory structures shall comply with standards pertaining to the principal use, unless exempted or superseded elsewhere in this Code.
- C. Accessory structures shall comply with front and side yard requirements for the principal structure to which they are accessory and shall not be closer to any side or rear property line than five (5) feet, except that in zero-lot line developments the minimum may be four (4) feet.
- D. Accessory structures shall not be located in a required buffer, or landscape area, or minimum side setback area.
- E. Accessory structures shall be included in all calculations of impervious surface and stormwater runoff.
- F. Accessory structures shall be shown on any site plan with full supporting documentation as required by this Code.
- G. Tiki and chickee huts must comply with all regulations and requirements of the Florida Building Code and accessory structures. Awnings not exceeding 200 square feet and located in the front of the building are allowed in Residential zones, subject to permitting requirements.

4.2.2 Satellite Dish, Tower or Mast Antenna

A. Standards

All antenna installations shall meet the following requirements:

1. The antenna shall be considered a structure requiring a building permit to be issued prior to installation. Subsequent to installation, the antenna shall be maintained in compliance with all applicable building and electrical codes.
2. The antenna installation and any part thereof shall maintain vertical and horizontal clearances from any electric lines and shall conform to the National Electric Safety Code.
3. The antenna installation shall meet all FCC and manufacturer specifications, rules, and requirements.
4. The antenna structure shall be of a non-reflective surface material and shall be made, to the maximum extent possible, to conform and blend, taking into consideration color and location, with the surrounding area and structures.
5. The antenna structure shall contain no advertising or signage of any type.
6. The installer of any such structure, prior to installation, shall submit detailed blueprints/drawings of the proposed antenna installation and foundation which shall be certified by the manufacturer or a professional engineer.

B. Standards for Installations in Residential Developments

1. A satellite dish antenna shall be considered an accessory structure and shall not constitute the principal use of the property.
2. The satellite dish antenna installed pursuant to this subsection shall not be used for any commercial purposes. It shall only provide service to the main dwelling structure.
3. Satellite dish antenna installations shall be limited to one installation per residential unit.
4. The maximum size of the satellite dish antenna, whether ground or pole-mounted shall be three (3) feet in diameter.
5. The satellite dish antenna installation, shall be mounted at a fixed point and shall not be portable, in conformance with the requirements of the Florida Building Code.
6. Antenna in residential districts shall not exceed five (5) feet in height above the roof of the main dwelling.
7. Private, non-commercial large dish antennas (between 24" and 3' in diameter) may be permitted in the Village in connection with single or multifamily residential buildings of four stories, provided that:
 - i. In single or two story single family residences they are located in the rear yard, and in multi-story residential building of two stories or more a rooftop installation may be permitted as long as anchorage of the antenna complies with the requirements of the Florida Building Code relative to structures;
 - ii. They are placed no closer to any property boundary line than a distance equal to their height, as measured from ground level to the top of the antenna dish, but in no event closer than five feet to such boundary line;
 - iii. They do not encroach on any of the required side setbacks for the district in which they are located; and
 - iv. Where rear and side setbacks abut public lands such as recreational areas or schools, antenna dishes may be located in the rear yard within five feet of the side and rear setback line when the dish is open in a horizontal position, notwithstanding the height thereof, not including streets, alleys, rights-of-way, or easements.
 - v. Large dish antennas may not exceed fifteen feet in height from ground level.

- vi. Large dish antennas shall be screened from public view with landscape materials which shall be maintained along the side and rear lot lines in such location, size and type as to obscure the antenna dish from the view from any opening, window or porch on the ground level or any abutting structure. Landscaping shall consist of trees and/or shrubs of such height and density, placed in such locations and in such proximity to the antenna dish as to obscure visibility of the large dish antenna as required herein.
 - 8. Private, non-commercial small dish antennas (less than 24" in diameter) may be permitted in the Village upon compliance with the following conditions:
 - i. No dish antenna may be installed in the front yard of any property.
 - ii. A small dish antenna may be installed in the side or rear of any property.
 - 9. Anyone wishing to install or erect a private, non-commercial large dish antenna must first submit the plans for the dish antenna, together with a lot survey to show the location of the antenna on the lot with the fence and landscape plan designating the height and type of trees and/or shrubs. The applicant shall also submit a scale drawing of abutting lots, structures thereon and the location of windows, porches and openings on the ground level thereof which are screened from view of the proposed antenna location to the planning and zoning department, the clerk will cause a permit to be issued, after payment of a fifty dollar permit fee.
 - 10. Anyone wishing to install or erect a private, non-commercial small dish antenna must do so in accordance with requirements of the Florida Building Code, and pay a twenty-five dollar processing fee and a five dollar permit fee.
 - 11. Once installed, large dish antennas and related appurtenances must be maintained in good and operable condition. Surrounding landscaping shall also be maintained as designated on the landscape plan.
- C. Standards for Installations in Commercial Developments
- 1. The antenna installation shall not be permitted to be placed in front of the main dwelling or commercial structure. It shall be permitted to be placed in side and rear areas of the main structure only.
 - 2. An antenna, tower or mast erected in a Commercial District shall not exceed fifty (50) feet above the natural ground and when located on a rooftop, shall not exceed fifteen (15) feet above the roofline.

4.2.3 Storage Buildings, Utility Buildings, Greenhouses, Sheds, PODS

- A. No accessory buildings used for industrial storage of hazardous, incendiary, or noxious, materials shall be located closer than fifty (50) feet from any property line
- B. Storage buildings, greenhouses, and the like shall be permitted only in compliance with standards for distance between buildings, and setbacks, if any, from property lines.
- C. Storage or other buildings regulated by this section shall be permitted only in side and rear yards, and shall not encroach into any required building setback from an abutting right-of-way.
- D. Storage or other buildings regulated by this section shall be included in calculations for impervious surface, floor area ratio, or any other site design requirements applying to the principal use of the lot.
- E. Temporary storage containers, including PODS are allowed to temporarily encroach into setback for a period not to exceed 90 days and may not be located in the line of visibility triangle.
- F. A detached prefabricated, non-CBS, utility shed, which is certified by the State of Florida and Miami-Dade County, or certified as meeting the relevant criteria for installation in Miami-Dade County, and measuring no more than ten (10) feet in width, ten (10) feet in length, and ten (10) feet in height (measuring from the ground to the highest point of the shed) may be located at a distance of no less than five (5) feet from the rear and side property lines. The installation of all such utility sheds shall comply with all requirements of the Florida Building Code, including anchoring requirements.

G. Vehicles shall not be used as storage buildings, utility buildings, or other such uses.

4.2.4 Swimming Pools, Hot Tubs, and Similar Structures.

- A. Swimming pools shall be permitted only in side and rear yards. Enclosures for pools shall be considered a part of the principal structure and shall comply with standards for minimum distance between buildings, yard requirements, and other building location requirements of this Code.
- B. All pools shall be completely enclosed with an approved wall, fence or other substantial structure not less than five (5) four (4) feet in height. The enclosure shall completely surround the pool and shall be of sufficient density construction to prohibit unrestrained admittance to the enclosed area through the use of self-closing and self-latching doors and in compliance with all related provisions of the Florida Building Code.
- C. No overhead electric power lines shall pass over any pool unless enclosed in conduit and rigidly supported, nor shall any power line be nearer than ten (10) feet horizontally or vertically from the pool's water edge.
- D. Excavations for pools to be installed for existing principal buildings shall not exceed a 2:1 slope from the foundation of buildings, unless a trench wall is provided.
- E. Swimming pools, not to be enclosed by a structure other than fences or screening as required or permitted by the city, may be constructed within yard areas except the required front yard, required street side yard, or required street rear yard as prescribed by this chapter. However, no part of the pool structure may protrude more than 12 inches above finished ground level and the pool walls shall be at least 10 feet from the lot lines. In determining the percentage of coverage of a lot by buildings, swimming pools which are not enclosed shall not be counted in the computation, however all impervious coverage standards still apply. Above ground pools will be subject to the regulations of accessory structures.

4.2.5 Walls, Fences, and Hedges

(See Buffer and Screening Requirements, Article VI)

4.3 - ACCESSORY USES

Accessory uses shall be clearly supplementary and incidental to the principal use of the lot and shall be located on the same lot as the principal use to which it is subordinate.

4.3.1 Home Occupations and Professional Offices

A home occupation or professional office shall be allowed in a dwelling unit subject to the following requirements:

- A. Members of the family residing on the premises shall be engaged in such use, with not more than one other person engaged in the use.
- B. The use of the dwelling unit for such accessory use shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.
- C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation, other than one sign not exceeding two square feet in area, non-illuminated, mounted flat against the wall of the principal building or in a window.
- D. No home occupation or professional office shall occupy more than twenty (20) percent of the first floor area of the residence. No accessory building, freestanding or attached shall be used for such accessory use.
- E. No traffic shall be generated by such occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of

such accessory use shall be met off the street and other than in a front yard required pursuant to this Code.

- F. No equipment, tools, or process shall be used in such accessory use which creates interference to neighboring properties due to noise, vibration, glare, fumes, odors, or electrical interference. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio, telephone, or television receivers off the premises or causes fluctuations in line voltage off the premises.
- G. Special exceptions include not more than one of the following home occupations: arts and crafts, dress-making, tailoring, swimming instructor, artist or a musician including giving instruction to one person at a time between 8:00 AM and 7:00 PM.
- H. Outdoor storage of materials shall not be permitted.
- I. The following shall not be considered home occupations: beauty shops, barbershops, band instrument or dance instructors, swimming pool or studio for group instruction, public dining facility or tea room, antique or gift shops, fortune telling or similar activity, outdoor repair, food processing, retail sales, nursery school, or kindergarten, assisted living facilities, day care centers (child or adult).
- J. A home occupation or professional office shall be subject to all applicable Village local business tax receipts fees, and other business taxes.

4.3.2 Incidental Services

Incidental services used in connection with either motels or hotels, including news or candy stands, restaurants and lounges, personal service shops, and similar uses, may be permitted provided the following conditions are met:

- 1. At least twenty-five (25) dwelling units shall be contained within the building group.
- 2. Not more than 10 percent of the total floor area within the buildings shall be so used.
- 3. All incidental services shall be situated within the principal building.

4.3.3 Storage of Recreational Vehicles, Boats and Camping Equipment

A. Boat and/or Airboat Storage

- 1. The location of such stored equipment shall be in the rear yard or in the side yard to the rear of a line established by the front building line furthest from the street and setback to at least the rear building line, wherever possible but in no event in front of such front building line.

In the event that the boat/airboat is of a greater width than the side setback, such boat/airboat will be permitted to be parked in the driveway or a paved area parallel thereto, subject to the following limitation:

- a) No boat with an overall length of over 25 feet, including the trailer and outdrive and 8 feet in width will be allowed to be parked in front of any home, duplex or apartment house within the Village.
- 2. No more than one boat may be stored on any one premise.
- 3. Boats and place of storage shall be kept in a clean, neat and presentable condition.
- 4. No major repairs or overhaul work shall be made or performed on the premises.
- 5. The boats shall not be used for living or sleeping quarters and shall be placed on and secured to a transporting trailer carrying a current license.

B. Recreational and Camping Equipment

Recreational and camping equipment are subject to the following conditions:

1. No more than one such equipment shall be parked on an open site containing a single family or duplex residence.
2. Such parking shall be limited to such equipment owned or leased by the occupant-owner or occupant-lessee of the site concerned, or owned or leased by a bona-fide out of Miami-Dade County houseguest of the occupant/owner or occupant/lessee of the site concerned, with the parking of such equipment by guest not to exceed 14 days.
3. The location for such parked equipment shall be in the rear yard or in the side yard to the rear of the line established by the front building line furthest from the street and setback to at least the rear building line wherever possible, but in no event in front of such front building line. Such equipment shall be setback from the side property lines at least a distance equivalent to the required side setback for the principle building and shall be setback from the rear property line at least 10 feet.
4. Such equipment and the area of parking shall be maintained in a clean, neat presentable manner and the equipment shall be in usable condition at all times.
5. Such equipment shall, at all times, have attached a current vehicle registration license plate, and, if required, a current inspection sticker.
6. No major repairs or overhaul work on such equipment shall be made or performed on the site, (or any other work performed thereon which would constitute a nuisance under existing ordinances).
7. When parked on the side, such equipment shall not be used for living or sleeping quarters, or for house-keeping or storage purposes and shall not have attached thereto any service connection lines, except as may periodically be required to maintain the equipment and appliances.
8. Such equipment shall not exceed the maximum length, width, height and weight permitted under applicable provisions of the motor vehicle laws of the State of Florida; provided, however, the maximum length shall not exceed 30 feet and the maximum height shall not exceed 10 feet.
9. Such equipment shall be so secured so that it will not be a hazard or menace during high winds or hurricanes.

3.3.4 Outdoor Recreation

1. Outdoor recreational uses are limited to private residential development.
2. Outdoor recreational uses are permitted when the traffic generation rates do not exceed the volumes generated by residential uses.

ARTICLE V. - CONSISTENCY AND CONCURRENCY DETERMINATIONS

5.1 - CONSISTENCY WITH VILLAGE PLAN

5.1.1 General

No development activity may be approved unless it is found that the development is consistent with the Village Comprehensive Plan and that the provision of certain public facilities will be available at prescribed levels of service concurrent with the impact of the development on those facilities. Proof of adequacy shall be the responsibility of the applicant. The Village Chief Building Official, in consultation with Village Attorney, shall be the local official empowered to make administrative concurrent determinations pursuant to procedures to be approved by the Village Council.

5.1.2 Definition

Concurrency is a condition where specified facilities and services have or will have the necessary capacity to meet the adopted level of service standards at the time of impact of the development project.

5.1.3 Conditional Development Orders

Unless public facilities and services which meet or exceed adopted level of service standards are available at the time the development permit is issued, development orders shall be specifically conditioned upon availability of the public facilities and services

5.1.4 Phasing Permitted

Public facility and service availability shall be deemed sufficient if the public facilities and services for a development are phased, or the development is phased, so that the public facilities and those related services which are deemed necessary by the Village to operate the facilities necessitated by that development are available and meet the adopted level of service standards concurrent with the impacts of the development.

5.1.5 Consistency with Capital Improvement Elements

Phased facilities and services to be provided by the Village, Miami-Dade County or other responsible public agencies shall be included in and consistent with the adopted Capital Improvement Elements of those jurisdictions.

5.1.6 Developer Improvement Guarantees

Public facilities and services to be provided by the developer shall be guaranteed in an enforceable agreement, including development agreements pursuant to Chapter 163, F.S., or agreements or development orders issued pursuant to Chapter 380, F.S.

5.1.7 Vested Rights

Pursuant to Chapter 163.3167(8), F.S., nothing within this Code shall be interpreted to limit or modify the rights of any person to complete any development that has been authorized by a valid development order for a Development of Regional Impact pursuant to Chapter 380, Florida Statutes, or any person who has been issued a final local development order and where development was commenced prior to the adoption of the Village's revised Comprehensive Plan and is continuing in good faith.

5.2 - MAINTAINING LEVEL OF SERVICE STANDARDS

5.2.1 General

- A. No development activity may be approved unless it meets the following requirements designed to insure that certain public services are available at prescribed levels of service concurrent with the impacts of to the environment.
- B. Applications for development orders in MER, MFR, RCU, GCU and IU Districts shall demonstrate that the proposed development does not degrade adopted levels of service in the Village.
- C. An application for a development permit shall demonstrate that the proposed development does not degrade adopted levels of service if there exists no development order wider which the permit is sought, and no development order is required prior to the issuance of the permit, e.g. a residence on a parcel of unplatted land.
- D. The latest point at which concurrency is determined is the final development order. If no development order is required, the latest point to determine concurrency is the first development permit on a site.

5.2.2 Determination of Available Capacity

For purposes of these regulations the available capacity of a facility shall be determined by:

A. Adding Together:

1. The total capacity of existing facilities operating at the required level of service; and

2. The total capacity of new facilities that will come available concurrent with the impact of the development. The capacity of new facilities may be counted only if one or more of the following is shown:
 - a) Construction of the new facilities is under way at the time of application.
 - b) The new facilities are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the development permit is issued.
 - c) The new facilities have been included in the Village Capital Improvement Program annual budget.
 - d) The new facilities are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, Florida Statutes, or an agreement or development order pursuant to Chapter 380, Florida Statutes. Such facilities must be consistent with the Capital Improvements Element of the Comprehensive Plan and approved by the Village Engineer.
 - e) The developer has contributed funds to the Village necessary to provide new facilities consistent with the provisions of the Capital Improvements Element of the Comprehensive Plan and the various exactions required in this Code. Commitment that the facilities will be built must be evidenced by an appropriate budget amendment, developer agreements or appropriation by the Village or other governmental entity.

B. Subtracting from that Number the Sum of:

1. The demand for the service created by existing development; and
2. The new demand for the service that will be created concurrent with the impacts of the proposed development by the anticipated completion of other presently approved developments.

C. Burden of Showing Compliance on Developer

The burden of showing the compliance with these level of service requirements shall be upon the developer. In order to be approvable, application for development approval shall provide sufficient information showing compliance with these standards.

D. Action Upon Failure to Show Available Capacity

Where available capacity cannot be shown, the following methods may be used to maintain adopted level of service:

1. The project owner or developer may provide the necessary improvements to maintain level of service. In such case the application shall include appropriate plans for improvements, documentation that such improvements are designed to provide the capacity necessary to achieve or maintain the level of service, and recordable instruments guaranteeing the construction, consistent with calculations of capacity above.
2. The proposed project may be altered sufficiently such that projected level of service is no less than the adopted level of service.

5.3 - ADOPTED LEVELS OF SERVICE

New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service as established in the Comprehensive Plan:

A. Potable Water

1. New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for potable water as established in the Potable Water Sub-Element of the Comprehensive Plan:
2. User LOS — Maintain capacity to deliver 100 gallons per capita per day (gpcd) at a pressure of 20 psi or more.
3. Water Quality — Meet all County, State and Federal primary potable water standards.
4. Countywide Storage — Storage capacity for finished water shall equal no less than 15% of countywide average daily demand.
5. Minimum Fire-Flow:
 - Single Family Residential — 750 gal/min
 - Multi-Family Residential — 1,500 gal/min
 - Semi-professional offices — 1,500 gal/min
 - Business/Industry — 3,000 gal/min

B. Waste Water

1. Peak flow:
 - 100 gallons per capita per day where sewer lines exist.
 - other = septic tanks where sewer lines do not exist.

C. Traffic Circulation

New development shall not be approved unless there is sufficient available capacity to sustain the following levels of service for transportation systems as established in the Transportation Element of the Comprehensive Plan:

1. Peak hour level of service:

— Arterials	"D"
— Collectors	"D"
— Local Streets	"D"

D. Drainage, Interim

Stormwater Quantity: Accommodate stormwater runoff from the degree of flooding that would result from one day, one in 10 year frequency storm.

Stormwater Quality: Stormwater facilities shall be designed to meet the design and performance standards established in Chapter 62-25, 25.025, FAC, as amended with treatment of the first 1 inch of rainfall runoff to meet water quality standards required by Chapter 62-302, 62-302, FAC, as amended.

E. Solid Waste

1. Collection services to be provided in all areas of the Village shall be based on population and shall be sufficient to maintain a level of service of six and a half (6.5) pounds per person per day.

F. Open Space and Recreation

1. Recreational open space shall be provided at the minimum rate of 1.4 acres of parks per 1,000 permanent residents.

ARTICLE VI. - LAND SUBDIVISION AND IMPROVEMENT STANDARDS

6.1 - GENERAL PROVISIONS

6.1.1 Purpose

The purpose of this Article is to provide development design and improvement standards applicable to all development activity within the Village.

6.1.2 Responsibility for Improvements

All improvement required by this Article shall be designed, installed, and paid for by the Developer.

6.1.3 Principles of Development Design

The provisions of this Article are intended to ensure functional and attractive development. All development shall be designed to avoid unnecessary, impervious surface cover; to provide adequate access to lots and sites; and to avoid adverse effects of shadow, glare, noise, odor, traffic, drainage, and utilities on surrounding properties.

6.1.4 Applicable Regulations

The subdivision of all land within the Village shall be subject to Chapter 28 of the Miami-Dade County Code of Ordinances as administered by the Miami-Dade County Department of Public Works as well as other applicable Village Regulations including Ordinance 346 Floodplain Management Regulations.

6.2 - LOT DIMENSIONS, SETBACKS, AND BULK REQUIREMENTS

6.2.1 Table of Lot Dimensions, Setbacks and Bulk ** Requirements

	Lot Dimensions			Setbacks				Bulk				
Districts	Lot Area	Lot Width	Lot Depth	Front	Side	Corner Side	Rear	Height	Lot Coverage	Impervious	F.A.R. / Density	F.A.R. Bonus
Single-Family Residential	6,000 SF	60 Ft	100 Ft	25 Ft	10% of the width of lot	15 Ft	10 Ft	2 Stories 30 Ft	35%	30%	6 du/ac	N/A

					or not less than 5 Ft							
Medium Multi-Family Residential	7,500 SF	60 Ft	125 Ft	25 Ft	5 Ft	15 Ft	10 Ft	2 Storie s 30 Ft	50%	60%	12 du/ac	N/A
Multi-Family Residential	10,000 SF	100 Ft	100 Ft	25 Ft	5 Ft	15 Ft	25 Ft	3 Storie s 45 Ft	70%	75%	1.0/30 du/ac	N/A
Restricted Commercial	5,000 SF	50 Ft	100 Ft	25 Ft	5 Ft	10 Ft	15 Ft	3 Storie s 45 Ft	80%	75%	1.0	1.5 when mixed - use w/ Resi- denti al
General Commercial	10,000 SF	100 Ft	100 Ft	N/A	5 Ft	10 Ft	15 Ft	3 Storie s 45 Ft	80%	85%	2.0	3.0 when hotel or motel
Institutional	10,000 SF	100 Ft	100 Ft	25 Ft	5 Ft	N/A	15 Ft	2 Storie s 30 Ft	80%	45%	.75	N/A
Recreational/Open Space	N/A	N/A	N/A	15 Ft	5 Ft	15 Ft	15 Ft	2 Storie s	N/A	20%	N/A	N/A

								30 Ft				
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6.2.2 Lot Regulations

No residence may be built closer than 15 feet from corner. If a commercial use adjoins another commercial use or district, no side yard is required. However, if one is provided, it shall be not less than 15 feet, see Table 6.2.1.

6.2.3 Building Setback Requirements

A. Minimum Setback on Front, Side and Rear Yards

1. Where a residential district abuts a nonresidential district, there, shall be provided in the nonresidential district for a distance of 50 feet from the district boundary line along the same street a front yard at least equal in depth to that required in the residential district.
2. Where the side or rear yard in a residential district abuts a side or rear yard in a nonresidential district, there shall be provided in the nonresidential district along the abutting line or lines, a side or rear yard at least equal in depth to that required in the residential district. In no case, however, shall the, abutting side yard or abutting rear yard of the nonresidential district be less than 25 feet.
3. Minimum Setbacks Between Buildings
4. The minimum distance between adjacent buildings shall be ten (10) feet, distance shall be measured at the narrowest space between structures, whether a main living unit, principal structure, an allowable attachment, or an accessory use, and shall not include roof overhang (eave).
5. Minimum Setbacks For Buildings Exceeding 25 Feet In Height
6. When a building exceeds twenty-five (25) feet in height, the minimum distance from an adjacent building or property line shall be increased by two (2) feet for each story above two (2).

6.2.4 Height Regulations

- A. No building or structure shall have a greater number of stories, nor have an aggregate height of a greater number of feet than is permitted in the district in which the building is located as noted in the Table of Lot Dimensions,. Yard Setbacks and Bulk Requirements, except as noted in division B below.
- B. Chimneys, cooling towers, elevators, bulkheads, fire towers, gas tanks, steeples, water towers, ornamental towers or spires, communications, radio or television towers, or necessary mechanical appurtenances, may be erected as to their height in accordance with existing or thereafter adopted ordinances of the Village. No tower, other than a church spire or tower, or a public building shall exceed the height regulations by more than 40%. No tower shall be used as a place of habitation or for tenant purposes. No sign, nameplate, display, or advertising device of any kind whatsoever shall be inscribed upon or attached to any chimney, tower, tank, or other structure which extends above the height limitations.

6.3 - MINIMUM DWELLING UNIT SIZE

The term "living space" includes all space of the dwelling excluding balconies, garages, patios, and exterior areas of the dwelling.

A. Square Feet Required in RU District

No residential dwelling unit constructed in the Single family Residential district shall be smaller than 1,100 square feet of living space.

B. Square Feet Required in MER District

No dwelling unit in Medium Multiple Family Residential district shall be smaller than 800 square feet of living space.

C. Square Feet Required in MFR District

1. All dwelling units shall contain the following minimum amount of living space:
2. One-bedroom dwellings: 800 square feet of living space.
3. Two-bedroom dwellings: 950 square feet of living space.
4. Three-bedroom dwellings: 1,150 square feet of living space.

6.4 - IMPERVIOUS SURFACE COVERAGE AND DRAINAGE

6.4.1 General

Impervious surface on a development site shall not exceed the lot coverage maximums provided in Table 6.2.1.

6.4.4 Swales

Swales shall not be paved or covered with impervious materials. Elevations shall not be changed. No improvements or changes in swale areas shall be made without a permit approved by the Village Council. Stormwater shall be run over vegetative areas prior to discharge into the Village drainage system.

6.5 - SIDEWALKS AND BIKEWAYS

6.5.1 When Required

Projects abutting collector or arterial facilities shall provide sidewalks adjacent to the collector or arterial roadway. Projects in Medium Multiple Family Residential, Multiple Family Residential, Restricted Commercial, General Commercial and Institutional districts shall provide sidewalks. Location of sidewalks shall be consistent with planned roadway improvements.

- A. Residential projects adjacent to or in the immediate vicinity of an activity center comprised of office, service, school, or recreation activities shall provide pedestrian and bicycle access from the development to the activity center.

6.5.2 Design and Construction Standards

Design and construction of sidewalks, bikeways and vita course trails between the east side of Ludlam canal and N.W. 67 Avenue, or other footpaths shall conform to the requirements of Chapter 28, Subdivisions, Code of Miami-Dade County.

6.6 - OFF-STREET PARKING

6.6.1 General

A. Applicability

Off-street parking facilities shall be provided for all development within the Village pursuant to the requirements of this Code. All parking areas and their access driveways shall be paved. The facilities shall be maintained as long as the use exists that the facilities were designed to serve.

B. Computation

When determination of the number of off-street parking spaces required by this Code results in a fractional space, the fraction of one-half ($\frac{1}{2}$) or less may be disregarded, and a fraction in excess of one-half ($\frac{1}{2}$) shall be counted as one (1) parking space.

Restrictions and Parking Standards

Parking	Width	Length
Standard	8.5 Ft	19 Ft
Parallel	8 Ft	23 Ft
Motorcycle		
Accessible	Refer to the South Florida Building Code	
Tandem	Prohibited (except in Single Family or Duplex Residential)	

Driveways and Drive Aisles	Minimum Widths
Access Drive	9 Ft
Ingress/Egress (one-way)	12 Ft
Ingress/Egress (two-way)	24 Ft
Aisle between two opposing parking spaces	24 Ft
Parking at 45 degrees	

1. Street or sidewalk areas may not be used for off-street parking purposes as herein defined. The design, number, and placement of these drives all driveways is are subject to the approval of the Village Chief Building Official in consultation with Village Attorney before being constructed.
2. There shall be provided at the time of the erection of any main building or structure or at the time any main building or structure is enlarged or increased in capacity by adding dwelling units, guest rooms, floor area, or seats, or at the time any use or occupancy of an existing building is changed to a use or occupancy which increases the requirements for off-street parking, minimum off-street parking facilities with adequate provisions for ingress and egress, in accordance with divisions 1 and 2 above, and the Table of Off-Street Parking Requirements.

3. Parking spaces for all uses or structures which are provided as required parking shall be located on the same lot, and have the same land use district as the principal use or structure they are intended to serve.
4. In residential districts, required parking spaces for single-family and two-family dwellings may be permitted in any setback areas or yards and shall be counted as meeting off-street parking requirements except that within a required front yard all parking shall be located in a driveway or turnaround. In all other districts, required front, street side, or street rear yards shall not be used for off-street parking except as permitted herein; maximum of 50% of the required yards may be utilized for off-street parking and other vehicular storage or circulation provided the plan for the use is approved by the Village Chief Building Official in consultation with Village Attorney as provided for in division 7 below; each parking space shall have an adequate and substantial wheel stop located at least six (6) feet from any abutting property line and parking area surfaces shall not extend closer than five feet from any abutting property line; all parking areas shall have each parking space and aisle marked; all parking areas shall be landscaped based on the landscape requirements of this code.
5. No curbs or sidewalks may be cut or altered in any manner without a permit from the Village and all other applicable county and state agencies. The Florida Department of Transportation, District 6 Permits Engineer must approve any and all driveway changes, modifications, additions or alterations in any manner on NW 36th Street prior to site plan submittal to the Village.
6. Swale areas are not to be considered or counted as authorized parking spaces. (See Sec. 12-26, Village Code)
7. Parking requirements may be relaxed for mixed-use developments with a parking management plan that is reviewed by the Village Planning and Zoning Board and approved by the Village Council.

6.6.2 Table of Off-Street Parking Requirements

Use	Parking Spaces Required Per Unit of Measurement
1. Single and two-family residential	Two (2) per dwelling unit: Per 1 and 2 bedroom units; 3 spaces for 3 or more bedroom units
2. Multi-family dwellings and townhouses	2.2 per 1 and 2 bedroom units, 2.5 for 3 or more bedroom units plus one (1) per each five units or portion thereof.
3. Religious institutions	One (1) per fifty (50) square feet of seats in the main auditorium or Florida Building Code occupant load.
4. Any Commercial and Retail	One (1) per 200 square feet of total ground floor area.
5. Hotels and motels	One per room for first 20 rooms, one for every 2 rooms if more than 20.
[6. Reserved]	
7. Medical or dental offices,	Seven (7) for each doctor or dentist or professional or 100 square feet

clinics, or professional offices	of floor space whichever is greater. One (1) per each four seats.
8. Restaurants, nightclubs, or other similar establishments	One (1) per three seats as established by the latest standards of the Florida Building Code or one (1) per 200 square feet of floor area, whichever is greater.
9. Theaters, auditoriums, or other places of public assembly	One (1) per each four seats.
10. Warehouse or wholesale commercial uses	One (1) per three seats as established by the latest standards of the Florida Building Code or one (1) per 200 square feet of floor area, whichever is greater.
11. School and daycare	Kindergarten and Elementary: Shall equal the total number of employees of the school.
	Junior High: Shall equal one and one quarter (1¼) times the total number of employees of the school.
	Senior High: One (1) per 200 square feet of the school, excluding athletic fields and gyms. Additionally, one (1) space for each four (4) employees, excluding teachers.

6.6.3 Special Parking Spaces

A. Accessible Parking Spaces

Any parking area to be used by the general public shall provide suitable, marked parking spaces for disabled persons. The number, design, and location of these spaces shall be consistent with the standards contained in the South Florida Building Code, or succeeding provisions.

B. Access for Handicapped Persons

Access to each principal building shall be provided from rights of way and parking areas by means of a hard-surfaced pathway leading to at least one entrance generally used by the public. The pathway shall be at least five (5) feet wide, unobstructed, and devoid of curbs, stairs or other abrupt changes in elevation. Ramps shall be designed in accordance with the ramp requirements of the Florida Building Code, or succeeding provisions.

6.7 - OFF-STREET LOADING

6.7.1 General

Spaces to accommodate off-street loading or business vehicles shall be provided as required below.

6.7.2 Off-Street Loading Requirements

In any district, in connection with every building, building group, or part thereof, thereafter erected and having a gross floor area of 4,000 square feet or more, which is to be occupied by multi-family, commercial, institutional or other uses similarly requiring the receipt of distribution by vehicles of materials or merchandise, there shall be provided and maintained, on the same lot with the building, off-street loading or unloading berths as shown below.

TABLE OF OFF-STREET LOADING SPACES

Gross Floor Area	Number of Berths
4,000 to 25,000 sq. ft.	1
25,001 to 40,000 sq. ft	2
40,001 to 60,000 sq. ft.	3
for each additional 50,000 sq. ft.	1

The loading berths required in each instance shall not be less than 12 feet in width, 30 feet in length, and 14 feet in height. The length of one or more of the loading spaces may be increased up to 55 feet if full-length tractor-trailer must be accommodated. Berths may occupy all or any part of any required yard except for a required front yard.

6.7.3 Placement of Garbage, Waste, and Recycling Containers, Dumpsters, and Bins

A. Residential Properties

As to all residential properties with less than four (4) dwelling units, and which do not utilize dumpsters for garbage or recycling collection, the following shall govern the placement, location, and maintenance of all containers, reservoirs, and bins used for depositing or disposing of garbage, waste, and recycling:

- (1) Garbage and waste shall be placed for pick-up only after 6:00 p.m. on Monday and Thursday, which are the nights, preceding the scheduled dates for garbage and waste pickup in the Village.
- (2) All garbage and waste receptacles shall be removed no later than 8:00 p.m. on Tuesday and Fridays from the swale area and/or the proximity of the front property line and placed in an area behind the front property line of said property.
- (3) Recycling bins shall be placed for pickup only after 6:00 p.m. on Monday, which is the night preceding recyclable pick up in the Village.
- (4) All recycling bins shall be removed no later than 8:00 p.m. on Tuesday from the swale area and/or proximity of the front property line and placed in area behind the building line of said property.

B. Commercial and Multi-Family

As to all commercial and multi-family residential properties with five (5) or more dwelling units, and which utilize dumpsters for garbage or recycling collection, the following shall govern the placement, location, and maintenance of all containers, reservoirs, and bins used for depositing or disposing of garbage, waste, and recycling:

- (1) Location: All dumpsters, and other receptacles used in conjunction therewith, if utilized for garbage, waste, and recycling collection in all applicable areas shall be kept in a location that is easily accessible to garbage and recycling collectors, but shall not be placed upon any street, sidewalk, alley or public place or in any location that obstructs or interferes with pedestrian or vehicle travel or movement.
- (2) Enclosure Required: All of the dumpsters and collection receptacles shall be placed and maintained within opaque enclosures of wood or masonry construction so as not to be visible from the street and from abutting properties. Multi-family properties and commercial establishments that can be automated by utilizing garbage and recycling automated containers shall be required to maintain a landscaped enclosure area surrounding the automated collection equipment, subject to the visibility requirements of this Article, adjacent to a driveway or roadway for collection by the automated truck.
- (3) Placement of Enclosures: Enclosures shall be located not less than ten (10) feet away from any street right-of-way (except service alleys), and shall be located as to facilitate safe vehicular movement and be convenient for users and accessible to servicing vehicles. All enclosures shall be required to provide a minimum visibility clearance at street and driveway intersections as follows:
 - (i) At street intersections, no enclosure shall be located within an area twenty five (25) feet along each intersection right-of-way, and then connecting the ends of the lines.
 - (ii) At intersections of driveways and streets, no enclosure shall be located within an area ten (10) feet along each intersecting line and then connecting the ends of the lines.
 - (iii) The Village Building Official shall have the discretion to permit the enclosure to be located in a setback area or a parking space required under this Code when no other suitable location exists on the property.
- (4) Construction Standards for Enclosures: All exterior garbage and recycling container enclosures shall be constructed to comply with the following standards:
 - (i) Florida Building Code: The construction of any wood or masonry enclosures shall comply with, and be predicated on the current requirements of the Florida Building Code.
 - (ii) Height: The enclosure walls and gates must be at least six (6) feet in height, but never less than eight (8) inches above the height of the container, so as to conceal the dumpster or container from view. The gate shall have a clearance on the bottom of no less than twelve (12) inches, so as to permit viewing of the enclosed area.
 - (iii) Base or Foundation: The base of the enclosure shall be a hard-paved surface of asphalt or poured concrete with dimensions at least twenty four (24) inches larger on all sides than the container to be located upon the base. The minimum inside dimensions of any enclosure shall be no less than six (6) feet by six (6) feet. The base shall be equipped with a drain and trap where a drain or trap is required by the applicable building codes and designed in a manner so as to drain only the area of the enclosure base. The access drive to the enclosure shall be designed to bear the weight of a garbage truck and shall be so maintained. Concrete wheel stops or similar material shall be placed at the side and rear of the enclosure six (6) inches from the walls to prevent the container from striking the walls of the enclosure.
 - (iv) Grade of Materials: Only pressure treated wood, block and stucco shall be used to construct the enclosures. No chain link or chain link with slats shall be used to construct the enclosures. Enclosure types shall be constructed of or with quality materials of sufficient strength and assembly to withstand the elements and normal daily use of garbage disposal and pickups. Enclosures constructed of wood shall be assembled utilizing pressure-treated wood and sufficient vertical and lateral support bracing as approved by the building official at the time of permit application. When masonry construction is required or used, all exterior walls shall be stucco-d and painted to present a finished appearance.

- (v) Gates: The gates shall be attached to metal posts a minimum of three inches in diameter with a minimum of three hinges per post. Each gate shall have a wheel at the bottom to prevent it from sagging. The gates shall have drop pin/rods to hold them in place in both the open and closed position. The gate shall have a clearance on the bottom of no less than twelve (12) inches, so as to permit viewing of the enclosed area.
- (vi) Pedestrian Access: All enclosures constructed for use on multi-family residential property shall be constructed with a thirty-six (36) inch opening on one side as a pedestrian access to the enclosure which shall enable a person to walk into the enclosure to deposit trash, and shall be located immediately adjacent to one of the opaque gates. The pedestrian opening shall be screened from view by a wood fence six (6) feet in height, or by landscaping of equal minimum height so planted as to provide maximum capacity. A walkway of concrete or asphalt shall be provided for the pedestrian opening that is a minimum of thirty (30) inches in width.
- (vii) Appearance and Maintenance Standards: All exterior garbage and recycling container enclosures shall be required to comply with the following standards:
 - (a) All exterior and interior walls and gates of both wood and masonry enclosures shall be painted in a color which is compatible with the color of the building or buildings it serves. Patchwork painting is prohibited.
 - (b) Signage of any type or graffiti is not permitted on the walls and gates of any enclosure. All graffiti shall be painted over within five (5) week days after it is discovered.
 - (c) Enclosures shall be maintained in good condition and appearance at all times. Peeling, fading, or chipped paint shall be restored; and, any structural damage shall be repaired.
 - (d) Trash, garbage, or recycling materials shall be kept in the container at all times, and the container shall have a lid or cover that is kept closed at all times. Trash, garbage, or recycling materials shall not be placed around the container or anywhere outside of the enclosure.
 - (e) Enclosure gates shall be kept closed and secured, except when materials are being placed in the container or the container is serviced.

6.7.4 Marking

Designated loading spaces shall be marked on the surface of the loading space with paint or permanent marking materials and maintained in clearly visible condition.

6.8 - BUFFER, SCREENING AND FENCE REQUIREMENTS

- A. Where any nonresidential use directly abuts a residential use district or where a multifamily residential use abuts a lower density residential use district it shall be screened from the adjoining residential use in both of the following ways:
 1. By a finished block wall, stucco on block, painted, six feet in height, as measured by the crown of the road adjacent to the property wherein the wall is being constructed. The wall shall be located completely within the limits of the lot, and shall have equal architectural treatment on both sides, and a maintenance easement shall be provided.
 2. By landscaping in the form of a hedge at least four feet in height arranged to form a solid hedge within the limits of the ten foot buffer zone or trees at least eight feet in height and ten feet apart.
 3. Each individual property owner shall be responsible for the maintenance of their individual side of wall or landscaping.
- B. Plans and design for the installation of required buffers and screens shall be reviewed as an element of a site plan review or, for the case where a site plan review is not required, in the same manner as

a site plan review prior to the issuance of a building permit for such uses as are required by this chapter.

- C. Any required buffers or screening shall be maintained in good order to achieve the objectives of this section. Failure to do so shall be considered a violation of this Code.
- D. No fence or wall shall be permitted in any front yard.
- E. The garden wall, fence, or hedge shall be permitted in street side yards.
- F. Any wall, fence, or hedge located adjacent to a public right-of-way shall be placed with the finished side facing that right-of-way.
- G. No wall, fence, or hedge shall be constructed or installed in such a manner as to interfere with drainage on the site.
- H. Any encroachment of a wall into a utility easement shall be supported by a letter from the respective utility authorizing said encroachment prior to obtaining the building permit.
- I. Nothing shall be erected, placed, planted, or allowed to grow in such a manner as to form a material impediment to visibility between the heights of three (3) feet and eight (8) feet above the street grade level crown within visibility triangles described below and illustrated in the right of way planting and cross visibility exhibit.
 - 1. At street intersections: such visibility triangles shall be maintained to include an area bounded by the first twenty (20) feet along the intersecting edges of the right-of-way (or base building line), projected when rounded, and a line running across the lot and connecting the ends of such twenty-foot lines.
 - 2. At intersections of driveways with streets: such visibility triangles shall be maintained to include an area bounded by the first ten (10) feet along the intersecting edges of the base building line and the driveway, projected when rounded, and a line running across any intervening right-of-way and the lot and connecting the ends of such ten-foot lines.
- J. The maximum height for any fence or wall is six (6) feet.
- K. All roof mounted equipment shall be screened from view from the public right of way, except for solar panels when the most efficient angle of sunlight would be visible from a public right of way.
- L. The installation, erection, or placement of any type of fence or fencing along any property or area which faces, abuts, or is within twenty (20) feet of the public thoroughfare anywhere along Curtiss Parkway (NW 57th Avenue) and/or along NW 36th Street is prohibited, unless the fence or fencing is setback no less than thirty-five (35) feet from the property line closest to Curtiss Parkway (NW 57th Avenue) and/or NW 36th Street.

6.9 - STREET DESIGN STANDARDS

A. Curbing Requirement

- 1. Curbing shall be required for the purposes of drainage, safety, and delineation and protection of pavement edge along streets in the following cases:
 - a. Along designated on street parking.
 - b. Where the surface drainage plan requires curbing to channel stormwater.
- 2. All curbing shall conform to the construction standards in the Chapter 28, Subdivisions, Code of Miami-Dade County.

6.10 - LANDSCAPING

6.10.1 Tree Protection Standards

Lots or parcels of land shall comply with all provisions of the Village Tree Ordinance, relating to removal, planting, trimming, pruning, cutting and maintaining trees and shrubbery.

6.10.2 Additional Exemptions from the Tree Protection Standards

Any utility operators, whether publicly or privately owned, may remove trees and shall comply with all provisions of the Village Tree Ordinance and all applicable Miami-Dade County permits. When needed to restore interrupted service under emergency conditions, utility operators may remove trees immediately and without prior written notice.

6.10.3 Required Landscaping and Landscaping Plans

A. Landscaped Open Space

1. A minimum of ten (10) percent of the net lot area of the site shall be developed as landscaped open space; provided, however, that a commercial use site that abuts a residential use site shall provide fifteen (15) percent of the net lot area as landscaped open space. Said space may include entrance features, unpaved passive areas, and other similar landscaped open space at ground level (see Section 6.8 Buffer, Screening and Fence Requirements).
2. Minimum standards or requirements for landscaping and irrigation within the Village, if not addressed by, or in conflict with, this Code, shall be governed by the following, as may be amended:
 - A. Chapter 18A, Miami-Dade County Landscaping Ordinance and Landscape Manual
 - B. Chapter 18B, Miami-Dade County Right-of-Way Landscape Ordinance
 - C. Section 32-8.2, Miami-Dade County Permanent Landscape Irrigation Restrictions
 - D. Chapter 24, Miami-Dade County Environmental Protection Ordinance

B. Transition Zones Standards

1. A transition zone is a landscaped strip along parcel boundaries that serves as a buffer/screen between incompatible use districts, as an attractive boundary of the parcel or use, or as both a buffer and attractive boundary
2. The width and degree of vegetation required depends on the nature of adjoining thoroughfares and uses. The standards in the subsections below prescribe the required width and landscaping for buffer zones. The desired width of a transition zone between two parcels is the sum of the required such zones of the parcels.
3. Required landscaping of transition zones: width plants per hundred (100) linear feet.

20 feet	1.2 canopy trees; 4 shrubs
15 feet	1.6 canopy trees; 6 shrubs
10 feet	2.0 canopy trees; 8 shrubs
5 feet	2.5 canopy trees; 10 shrubs

To determine the total number of plants required, the length of each side of the property requiring a buffer shall be divided by one hundred (100) and multiplied by the number of plants

required in the table. The plants shall be spread reasonably evenly along the length of the buffer.

4. Where a residential use is proposed next to an existing non-residential use, or a non residential use is proposed next to an existing residential use, and the existing use does not have a conforming transition zone abutting the property proposed for development, the proposed use shall provide eighty (80) percent of the combined required transition zones of the two uses. Where an existing use has a buffer or screening zone, but such zone does not meet the requirements of this Code, the proposed use may provide less than eighty (80) percent of the combined required buffer zones if the provision of such lesser amount will create a transition zone meeting one hundred (100) percent of the combined required transition zone of the two uses. The Village Chief Building Official in consultation with Village Attorney shall determine which areas may be counted as transition zone of the existing use based on the buffering qualities of the areas.

C. Street Trees/Hedges

1. The developer shall plant, within seven (7) feet of the pavement edge of each street on a residential street, twelve (12) feet on arterial streets, one shade tree for every forty (40) linear feet of right-of-way. Except where property on one side of the right of way is not owned by the developer, the trees shall be planted alternately on either side of the street. Existing trees and native tree species that need less water and maintenance are preferred. (Refer to Exhibit 1, Right of Way Planting and Triangles of Cross Visibility)
2. Trees planted pursuant to this section shall have a minimum overall height of ten (10) to twelve (12) feet at time of planting.
3. Hedges have a minimum overall height of two and a half (2.5) feet at time of planting.

D. Use of Required Areas

No accessory structures, garbage or trash collection points or receptacles, parking, or any other functional use contrary to the intent and purpose of this Code shall be permitted in a required landscape area. This does not prohibit the combining of compatible functions such as landscaping and drainage facilities.

E. Landscaping Plans

The applicant in making any request for landscaping approval or for approval of building plans under applicable ordinances and resolutions of the Village shall provide landscaping plans to the reviewing authorities responsible for such approval. This section shall not be applicable to approval of building plans for single-family dwellings.

6.10.4 Landscape Design and Materials

A. Design Principles

1. All landscaped areas required by this Code should conform to the following design principles:
2. Landscaping should integrate the proposed development into existing site features through consideration of existing topography, hydrology, soils and vegetation.
3. The functional elements of the development plan, particularly the drainage systems and internal circulation systems for vehicles and pedestrians, should be integrated into the landscaping plan.
4. Landscaping should be used to minimize potential erosion through the use of ground covers or any other type of landscape material that aids soil stabilization.
5. Existing native vegetation should be preserved and used to meet landscaping requirements.
6. Landscaping should enhance public safety, minimize nuisances and aid in reduction of air pollution.
7. Landscaping should maximize the shading of streets and vehicle use areas.

8. The definitions of various types of vegetation and of swale area contained in the Village Tree Ordinance applies.

B. Prohibited Plants

Listing of all prohibited trees and plant material, native and approved non-native trees and approved shrubs and ground covers shall be found in the Miami-Dade County Comprehensive Development Master Plan Conservation, Aquifer Recharge and Drainage Element — Policy CON-81 (Prohibited species list), and the Miami-Dade County Landscape Manual, as may be amended.

1. Prohibited trees and plant material are prohibited and shall be removed from sites and shall not be planted, grown, or offered for sale in the Village
2. Native and approved non-native trees with a diameter at breast height of less than 2.5 inches and less than 16 feet in height, and trees which are diseased or weakened by age or injury shall not qualify as approved native or non-native trees for the purpose of replacement.

C. Irrigation

All landscaped areas shall be provided with an appropriate irrigation system that conforms to the Florida Building Code. If a landscaped area contains primarily species native to the immediate region, or plants acceptable for xeric landscaping, the Village Chief Building Official in consultation with Village Attorney may waive the requirement for installation of an irrigation system. Consideration of a waiver of the irrigation requirement shall include, in addition to the area covered by native vegetation, such local conditions as sun or shade, use of fill soil, and depth to water table.

D. Maintenance and Replacement of Plants

1. All required plants shall be maintained in a healthy, pest-free condition.
2. Within six (6) months of a determination by the Village Chief Building Official in consultation with Village Attorney that a plant is dead or severely damaged or diseased, the plant shall be replaced by the developer in accordance with the standards specified in this Code.

6.11 - STORMWATER MANAGEMENT

6.11.1 Relationship to Other Stormwater Management Requirements

In addition to meeting the requirements of this Code, the design and performance of all stormwater management systems shall comply with applicable state regulations (Chapter 17-25, Florida Administrative Code) or rules of the Miami-Dade Department of Environmental Resources Management (DERM), and Article 10 of this Code. In all cases the strictest of the applicable standards shall apply.

6.11.2 Stormwater Management Requirements

A. Performance Standards

Developments must be designed, constructed and maintained to meet the performance standards:

1. Stormwater Runoff

Stormwater runoff, while development activity is underway, shall approximate the rate, volume, quality, and timing of stormwater runoff that occurred under the site's natural unimproved or existing state. After completion of any segment or phase of development, the development shall conform to the Village's level of service standards for drainage (See Article V, Concurrency Determinations).

B. Water Quality

The proposed development and development activity shall not violate the water quality standards as set forth in Chapter 17-3, Florida Administrative Code.

6.11.3 Design Standards

To comply with the foregoing performance standards, the proposed storm water management system shall conform to the following standards:

- A. To the maximum extent practicable, natural systems shall be used to accommodate stormwater.
- B. The proposed stormwater management system shall be designed to accommodate the stormwater that originates within the development and stormwater that flows onto or across the development from adjacent lands. The proposed stormwater management system shall be designed to function properly for a minimum twenty (20) year life.
- C. The design and construction of the proposed stormwater management system shall be certified as meeting the requirements of this Code by a professional engineer registered, in the State of Florida.
- D. No surface water may be channeled or directed into a sanitary sewer.

6.12 - UTILITIES

6.12.1 Requirements for all Developments

A. Water and Sewer

- (a) Every principal use and every lot within a subdivision shall have central potable water and wastewater hookup wherever and whenever required by the Village Comprehensive Plan and Miami-Dade County Water and Sewer Department.
- (b) Owners of property within the Village that require additional waterlines to service said property shall pay the entire cost of the installation of said waterlines from the existing waterline to the point furthest of the property line under development and in the size as determined by the Village Mayor or designee.

B. Fire Hydrants

All developments served by a central water system shall include a system of comply with Miami-Dade County Fire Department regulations for fire hydrants.

6.12.2 Design Standards

A. Compliance with the South Florida Building Code

All utilities required by this Code shall meet or exceed the minimum standards contained in the Florida Building Code and the Level of Service (LOS) standards given in the Comprehensive Plan.

B. Placement of Utilities Underground

- 1. All electric, telephone, cable television, and other communication lines (exclusive of transformers or enclosures containing electrical equipment including, but not limited to, switches meters, or capacitors which may be pad mounted), and gas distribution lines shall be placed underground within easements or dedicated public rights-of-way.
- 2. Screening of any utility apparatus placed above ground shall be required. Screening should consist of landscaping to the extent as to be sufficient to conceal the equipment from view.

C. Prohibition of Above-Grade Poles

The installation of poles or other overland structures for the purpose of carrying lines and/or cables is prohibited.

6.12.3 Utility Easements

When a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated, or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the

necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

ARTICLE VII. - SIGNS AND BILLBOARDS

7.1 - GENERAL PROVISIONS

Signs may be erected and maintained only when in compliance with the following provisions. Every sign or other advertising structure lawfully in existence on the adoption of this article shall be subject to all provisions of this chapter, including regulations pertaining to removal, maintenance, repair, and the like.

7.1.1 General Regulations

- A. Signs lettering or messages shall be classified as signs regardless of whether they are free standing, attached, painted, or projected to or on a principal or accessory building. In all cases, signs shall be constructed of durable materials, maintained in good condition, and not allowed to become dilapidated.
- B. No sign other than an official traffic-control sign shall be erected within the right-of-way lines of any street or public way.
- C. A permit shall not be required for the erection, alteration, or maintenance of nameplate and identification, or sale or rental signs for single-family dwellings, permitted in residential districts, political signs not exceeding 4 square feet.
- D. A permit shall be required for the erection, alteration, reconstruction, painting, or producing by artificial light of any sign within the Village, except signs defined in the part C above.
- E. Lighting shall not be used to outline any building, fence, wall, or any other structure.
- F. No sign shall be permitted on any premises, improved or unimproved, except as provided in this chapter.
- G. Supporting structures for any sign shall not be included in determining the square foot area of the sign, provided that the supporting structure shall not carry any messages.

7.1.2 Signs in Residential Districts

- A. The following types of non-advertising signs of a stationary nature are permitted in all residential districts as follows.
- B. Signs indicating the name or address of the occupant, or designating an access drive to the property may be permitted in conjunction with a single-family dwelling provided that they shall not be larger than two square feet in area. Only two such signs per lot or main building shall be permitted. Banners must comply with temporary sign regulations.
- C. For multi-family dwellings and buildings other than single-family dwellings, a single identification sign, not exceeding ten square feet in area, not exceeding six feet in height above the lot grade, nor closer than ten feet to the front or street side lot line, and indicating only the name and address of the building and the name of the management may be displayed in the yard area provided that on a corner lot two such signs (one facing each street) shall be permitted. In addition to the permitted yard signs, one sign for each street frontage may be installed flat against the main wall of the building or an entrance wall, each such sign not exceeding 30 square feet in area.
- D. Signs advertising the sale or rental of the premises on which they are erected by the owner or broker or any other person interested in the sale or rental of the premises, and signs bearing the word sold or rented with the name of the persons effecting the sale or rental, may be erected or maintained, provided that the following regulations are fulfilled:
 - 1. The size of any sign is not in excess of six square feet.
 - 2. Not more than one sign is placed on any property.

3. The sign or signs shall be removed within one week after the site or premises have been sold or rented.
4. The signs are removed within five (5) days after completion or abandonment of the work.

7.1.3 Signs Accessory to Parking Areas

Signs designating entrances or exits to or from a parking area and limited to one sign for each entrance or exit and to a maximum size of two square feet each shall be permitted. One sign per parking area designating the conditions of use or identity of the parking area and limited to a maximum size of eight square feet shall be permitted.

7.1.4 Signs in Nonresidential Districts

Signs are permitted in nonresidential districts in accordance with the following regulations.

- A. The gross surface area of all signs on a lot or for each licensed business shall not exceed 80 square feet in area, and signs shall be approved as part of a site plan or premises development review.
- B. No commercial sign in a nonresidential district shall project more than three feet from the main wall of a building nor shall any business sign project into a public way.
- C. One free standing commercial sign may be permitted for each licensed business; however, the sign shall be included in the calculation of sign area as provided in Business Sign Schedule.
- D. No non-residential sign shall be higher than the height limit of the district where the sign is located, nor shall any sign be located on the roof line of any building, or project above the roof.
- E. The non-residential district sign shall be on-site and not off-site.
- F. Signs of schools, places of religious assembly, or other institutions of a similar public or semi-private nature may be erected and maintained, provided the following regulations are fulfilled:
 1. The size of any sign is not in excess of 32 square feet; and
 2. Not more than one sign is placed on the property unless the property fronts on more than one street, in which event two signs may be erected, one on each frontage.
- G. Signs advertising the development of the site on which they are erected, when erected in connection with the development of the site by a builder, contractor, developer, or other persons interested in the sale or development, may be erected and maintained provided the following regulations are met:
 1. No sign shall be erected until a building permit for construction on the site has been issued.
 2. The size of any sign is not in excess of 32 square feet.
 3. No more than one sign is placed on any property.
 4. Any sign shall be removed by the developer within 30 days of the completion or abandonment of the project.
 5. No sign shall be placed closer than ten feet to the front or street side lot line.
- H. Signs of mechanics, painters, and other tradesmen may be erected and maintained during the period the persons are performing work on the site on which the signs are erected, provided the following regulations are fulfilled:
 1. Only one sign for each tradesmen is displayed.
 2. The size is not in excess of six square feet.
 3. No sign shall be closer than 10 feet to the front or street side lot line.
- I. Temporary Signs

A permit for a temporary sign shall be approved for a period not to exceed thirty (30) days, and may not be renewed more than three (3) times within a calendar year. Temporary signs shall not exceed thirty two (32) square feet.

7.1.5 Political Signs

Political temporary signs not exceeding fifteen (15) square feet in area shall be permitted on any vacant property provided the owner of the property has given written permission to the party erecting the sign. A deposit of ten dollars shall be required for each sign. The deposit shall be returned when the sign is removed or forfeited if the sign is not removed within five (5) days after the event.

7.1.6 No Defense to Nuisance Action

Compliance with the requirements of these regulations shall not constitute a defense to an action brought to abate a nuisance under the common law.

7.1.7 Maintenance

All signs for which authorization is required by this Code, including their supports, braces, guys and anchors, electrical parts and lighting fixtures, and all painted and display areas, shall be maintained in accordance with the building and electrical codes adopted by the Village, and shall present a neat and clean appearance. The vegetation around, in front of, behind, and underneath the base of ground signs for a distance of ten (10) feet shall be neatly trimmed and free of unsightly weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.

7.2 - DEFINITIONS

banner: A sign painted on cloth or canvas, hung or fixed in a place or manner so as to be visible to the public.

billboard: A surface whereon advertising matter is set in view conspicuously and which advertising does not apply to site or any use of premises wherein it is displayed or posted. A permanent ground sign supported by a structure attached to which is a single or double face the bottoms of which are at least 20 feet above the ground and in which each face is at least 200 square feet in size.

sign: Any device or visual communication that is used for the purpose of bringing the subject thereof to the attention of the public.

sign area: The entire area within a continuous perimeter, enclosing the extreme limits of sign display, including any frame or border. Curved, spherical, or any other shaped sign face shall be computed on the basis of actual surface area. The copy of signs composed of individual letters, numerals, or other devices shall be the sum of the area of the smallest rectangle or other geometric figure encompassing each of said letter or devices. The calculation for a double-faced sign shall be the area of one face only. Double-faced signs shall be so constructed that the perimeter of both faces coincide and are parallel and not more than 24 inches apart. sign, awning, canopy, marquee A sign painted, stamped, perforated, stitched, or otherwise applied on the valance or surface of an awning. An illuminated architectural canopy sign (backlit awning) is an enclosed, illuminated structure that is attached to the wall of a building with the face of the sign approximately parallel to the wall and with the message integrated into its face.

sign, electronic message board: Any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

sign, flashing: Any sign, which, by method or manner of illumination, flashes on or off, winks, or blinks with varying light intensity, shows motion, or creates the illusion of motion or revolves in a manner to create the illusion of being on or off.

sign, free standing: A sign supported by one or more upright poles, columns, or braces in or on the ground and not attached to any building or structure, and which the advertising content applies to use of the premises wherein it is displayed or posted.

sign, illuminated: A sign which contains a source of light or which is designed or arranged to reflect light from an artificial source including indirect lighting, incandescent/lights, back-lighting, and shall also include signs with reflectors that depend upon automobile headlights for an image. This definition excludes neon.

sign, permanent: A permanent ground sign supported by a structure attached to which is a single or double face, the bottoms of which are at least 20 feet above the ground and in which each face is at least 200 square feet.

sign, portable: Any sign not permanently affixed to the ground or to a building, including any sign attached to or displayed on a vehicle that is used for the expressed purpose of advertising a business establishment, product, service, or entertainment, when that vehicle is so parked as to attract the attention of the motoring or pedestrian traffic.

sign, projecting: Any sign other than a wall sign that is attached to and projects from the wall or face of a building or structure, including a marquee sign.

sign, roof: Any sign erected upon, against, or directly above a roof or roof eave, or on the top or above the parapet, or on a functional architectural appendage above the roof or roof eave.

sign, temporary: A sign intended for use only for a limited period of time.

sign, wall: A sign painted on the outside of a building, or attached to, and erected parallel to the face of a building and supported throughout its length by such building.

7.3 - EXEMPT SIGNS

The following signs are exempt from the operation of these sign regulations, and from the requirement in this Code that authorization be obtained for the erection of permanent signs, provided they are not placed or constructed so as to create a hazard of any kind:

- A. Signs necessary to promote health, safety and welfare, and other regulatory, statutory, traffic control or directional signs erected on public property with permission as appropriate from the State of Florida, the United States, the Miami-Dade County, or the Village of Virginia Gardens.
- B. Legal notices and official instruments.
- C. Merchandise displays behind storefront windows so long as no part of the display moves or contains flashing lights.
- D. Memorial signs or tablets, names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials and attached to the surface of a building.
- E. Decorative flags and bunting for a celebration, convention, or commemoration of significance to the entire community when authorized by the Village Commission for a prescribed period of time.
- F. Holiday lights and decorations.
- G. Works of art that do not constitute advertising and have been approved by the Planning and Zoning Board.
- H. Religious displays.
- I. Signs carried by a person.
- J. Real estate signs not exceeding eight square feet in area which advertise the sale, rental, or lease of premises upon which the signs are located only.
- K. Bulletin boards not over eight square feet in area for public, charitable, or religious institutions when the same are located on the premises of the institutions.
- L. Signs denoting the architect, engineer, or contractor when placed upon work under construction and not exceeding 16 square feet in area.

7.4 - PROHIBITED SIGNS

7.4.1 General

It shall be unlawful to erect, cause to erected, maintain or cause to be maintained, any sign not expressly authorized by, or exempted from, this Code.

7.4.2 Specific

The following signs are expressly prohibited unless exempted by Section 7.3 Exempt Signs: Any sign that, in the opinion of the Village Council, does or will constitute a safety hazard:

- A. Blank temporary signs.
- B. Signs with visible moving, revolving, or rotating parts or visible mechanical movement of any description or other visible movement achieved by electrical, electronic, or mechanical means, except for traditional barber poles.
- C. Signs with the optical illusion of movement by means of a design that presents a pattern capable of giving the illusion of motion or changing of copy.
- D. Signs with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary in intensity of color except for time-temperature-date signs.
- E. Strings of light bulbs used on commercially developed, parcels for commercial purposes, other than traditional holiday decorations.
- F. Signs, commonly referred to as wind signs or air supported signs, consisting of one or more banners, flags, pennants, ribbons, spinners, streamers, captive or tethered balloons, or other objects or material fastened in such a manner as to move upon being subjected to pressure by wind or to rise by means of air or gas, except for a temporary use of thirty (30) days.
- G. Signs that incorporate projected images, emit any sound that is intended to attract attention, or involve the use of live animals.
- H. Signs that emit audible sound, odor, or visible matter such a smoke or steam.
- I. Billboard or outdoor advertising signs.
- J. Signs that are painted, pasted, or printed on any curbstone, flagstone, pavement, or any portion of any sidewalk or street, except house numbers and traffic control signs.
- K. Signs placed upon benches, bus shelters or waste receptacles, except as may be authorized in writing pursuant to the Section 337.407, Florida Statutes.
- L. Signs erected over or across any public street except as may otherwise be expressly authorized by this Code, and except governmental signs erected by or on the order of a public officer.
- M. Vehicle signs with a total sign area on any vehicle in excess of ten (10) square feet, when the vehicle:
 - 1. Is parked for more than sixty (60) consecutive minutes within one hundred (100) feet of any street right of way;
 - 2. Is visible from the street right of way that the vehicle is within one hundred (100) feet of; and
 - 3. Is not regularly used in the conduct of the business advertised on the vehicle. A vehicle used primarily for advertising, or for the purpose of providing transportation for owners or employees of the occupancy advertised on the vehicle, shall not be considered a vehicle used in the conduct of the business.
- N. Signs displaying copy that is harmful to minors.
- O. Portable signs as defined by this Code.

7.4.3 Obscene Matter Prohibited

It shall be unlawful for any person to display upon any sign or other advertising structure and obscene, indecent, or immoral matter.

7.5 - PERMITTED PERMANENT ACCESSORY SIGNS

7.5.1 Time-Temperature-Date Signs

Time-temperature-date signs are permitted as a permanent accessory sign on commercially developed parcels notwithstanding the general prohibition on changing signs. These signs may only display numerical information in an easily comprehensible way and shall be kept accurate. They may be ground or building signs, and are subject to the regulations applicable to such signs. They shall be counted as part of an occupancy's allowable sign area.

7.5.2 Directional Signs

Directional signs limited in area to four (4) square feet, giving directions to motorists regarding the location of parking areas and access drives on all parcels and shall not be counted as part of an occupancy's allowable sign area.

7.5.3 Flags

- A. Not more than three flags or insignias of governmental, religious, charitable, fraternal or other organizations may be displayed on any parcel of land.
- B. The maximum size from top to bottom of any flag shall be twenty (20) percent of the total height of the flag pole, or in the absence of the flag pole, twenty (20) percent of the distance from top of the flag or insignia to the ground.
- C. Flag poles are not to exceed a maximum height of twenty (20) feet above finished grade in residential districts and forty (40) feet above finished ground in non-residential districts.

7.5.4 Utility Signs

Public utility signs that identify the location of underground utility lines and facilities, high voltage lines and facilities, and other utility facilities and appurtenances are permitted so long as they do not exceed three (3) feet in height, and so long as the sign face does not exceed one-half (1/2) square foot.

7.6 - MEASUREMENT DETERMINATIONS

7.6.1 Sign Area

- A. The area of a sign shall be the area within the smallest square, rectangle, parallelogram, triangle, circle or semicircle, the sides of which touch the extreme points or edges of the sign face.
- B. Where a sign is composed of letters or pictures attached directly to a facade, window, door, or marquee, and the letters or pictures are not enclosed by a border or trimming, the sign area shall be the area within the smallest square, rectangle, parallelogram, triangle, circle or semicircle, the sides of which touch the extreme points of the letters or pictures.
- C. Where two sign faces of identical size and shape are placed back to back on a single sign structure, and the faces are at no point more than four (4) feet apart, the area of the sign shall be counted as the area of one (1) of the faces.
- D. Where a sign has four faces arranged in a square, rectangle, or a diamond, the area of the sign shall be the area of the two largest faces.
- E. Where a sign is in the form of a three-dimensional object, the area shall be determined by drawing a square, rectangle, parallelogram, circle or semicircle, the sides of which touch the extreme points or

edges of the projected image of the sign and multiplying that area by two (2). The "projected image" is that image created by tracing the largest possible two dimensional outline of the sign.

F. Corporate logos shall be included in measuring the size and number of signage on a single building.

7.6.2 Facade Area

The facade area shall be measured by determining the area within a two-dimensional geometric figure coinciding with the edges of the walls, windows, doors, parapets, marquees, and roof slopes of greater than forty-five (45) degrees that form a side of a building or unit.

7.6.3 Sign Height

The vertical distance from the finished grade at the base of the supporting structure to the top of the sign, or its frame supporting structure, whichever is higher.

7.6.4 Number of Signs

- A. In general, the number of signs shall be the number of non-contiguous sign faces. Multiple non-contiguous sign faces may be counted as a single sign if all the sign faces are included in the geometric figure used for determining the sign area.
- B. Where two sign faces of identical size and shape are placed back to back and are at no point more than four (4) feet apart, it shall be counted as one sign.
- C. If a sign has four faces arranged in a square, rectangle or diamond, it shall be counted as two signs.

7.7 - DESIGN, CONSTRUCTION, AND LOCATION STANDARDS

7.7.1 General

All permanent signs must comply with the following design, construction and location standards.

7.7.2 Compliance with Building and Electrical Codes Required

All permanent signs, and the illumination thereof, shall be designed, constructed and maintained in conformity with applicable provisions of the building and electrical codes adopted by the Village and Miami-Dade County.

7.7.3 Illumination Standards

- A. Sign lighting may not be designed or located to cause confusion with traffic lights.
- B. Illumination by floodlights or spotlights is permissible so long as none of the light emitted shines directly onto an adjoining property or into the eyes of motorists or pedestrians using or entering public streets.
- C. Illuminated signs shall not have lighting mechanisms that project more than eighteen (18) inches perpendicularly from any surface of the sign over public space.

7.7.4 Placement Standards

A. Near Street and Driveway Intersections

Sign in excess of two (2) feet in height and located within a vision triangle, as defined by this Code, must conform to the following:

- 1. A clear vertical space must be maintained between a distance of three (3) feet and eight (8) feet above the highest crown of any adjacent street.
- 2. The sign must be supported by a single structure that does not exceed eight (8) inches in diameter.

B. Over or in Right-Of-Way

Supports for signs or sign structures shall not be placed in or upon a public right of way or public easement, except under the terms of a lease between the owner and the easement or right of way and the owner of the sign.

C. Setback Requirements (Except General Commercial District)

1. No sign displaying an area of 32 square feet or less shall be placed within 25 feet of the pavement of any public street or roadway within the corporate limits of the Village.
2. No sign displaying more than 32 square feet of any surface or face shall be maintained within 50 feet of the nearest edge of the pavement of any public street or roadway
3. Within the corporate limits of the Village, nor shall any signs, regardless of area, be erected or maintained nearer than 50 feet from any adjoining property line; nor shall any sign be erected within 300 feet of an existing sign of an area of more than 32 square feet.

7.7.5 Clearance Standards

- A. All signs over pedestrian ways shall provide a minimum of seven (7) feet six (6) inches of clearance.
- B. All signs over vehicular ways shall provide a minimum of fourteen (14) feet of vehicle clearance.

7.7.6 Maximum Projection

A building sign may project no more than four (4) feet perpendicularly from the surface to which it is attached.

7.7.7 Maximum Window Coverage

The combined area of permanent and temporary signs placed on or behind windows shall not exceed twenty-five (25) percent of the total window area at the same floor level on the side of the building or unit upon which the signs are displayed.

7.8 - PROCEDURE TO ERECT NON-EXEMPT PERMANENT SIGN

7.8.1 General

The erection of a permanent sign that is not exempt under this Code is a development activity requiring authorization pursuant to this Code. No authorization to erect a sign shall be deemed to constitute permission or authorization to maintain an unlawful sign nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.

7.8.2 Sign Permit Application

Applications for sign permit shall be made to the Village Clerk, and shall contain or have attached thereto the following information:

A. Information Required

1. Name, address, and telephone number of the applicant.
2. Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
3. Position of the sign or other advertising structure in relation to nearby buildings, structure, and property lines.
4. Two sets of the plans and specifications and method of construction and attachment to the building or in the ground. A current signed and sealed boundary survey prepared by a licensed surveyor.
5. Name of person, firm, corporation, or association erecting structure.

6. Written consent of the owner of the building, structure, or land on which the structure is to be erected.
7. Any electrical permit required and issued for the sign.
8. Such other information as the Village Clerk or the Village Chief Building Official in consultation with Village Attorney shall require to show full compliance with this and all other laws and ordinances of the Village.
9. Planning and Zoning Board, Village Mayor or Mayor's designee
10. It shall be the duty of the Planning and Zoning Board to examine the plans and specifications of the proposed sign and to provide written recommendation to the Village Council for decision as to the granting of a permit. When questions of fact arise regarding the proposed structure of the sign, the Board shall secure a written opinion from the Village Mayor or Mayor's designee. If the work authorized under the sign permit has not been completed within six months after date of issuance, the permit shall become expired, and a renewal shall be requested.

7.8.3 Revocation of Permit

The Village Chief Building Official in consultation with Village Attorney is hereby authorized and empowered to revoke any permit issued by him/her upon failure of the holder thereof to comply with any provisions of this chapter.

7.8.4 Penalty

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$200 or by imprisonment not exceeding 30 days, or both such fine and imprisonment. Each day such violation is committed, or permitted to continue, shall constitute 4 separate offenses and shall be punishable as such hereunder.

ARTICLE VIII. - HARDSHIP RELIEF

8.1 - PURPOSE

The purpose of this Article is to provide mechanisms for obtaining relief from the provisions of this Code where hardship would otherwise occur. Three forms of hardship, are addressed: (1) hardship that would be caused if nonconforming development were required to immediately come into compliance with this Code; (2) criteria for granting special exception uses; (3) hardship that may be caused in particular cases by the imposition of the Code's development design standards.

8.2 - EXISTING NONCONFORMING DEVELOPMENT

8.2.1 Defined

Nonconforming development is development that does not conform to the Articles contained in this Code.

8.2.2 Continuation of Use

A use, building, or structure, lawfully in existence on the date of adoption of this Code, which shall be made nonconforming at the passage of this article or any applicable amendment thereto may be continued except as otherwise provided in this section. A use, building, or structure is, for the purpose of this chapter, a nonconforming use if the use, or building, or any physical characteristics of the use or building, is not in full compliance with all regulations of the land use district in which it is situated.

8.2.3 Regulation of Nonconforming Uses and Structures

No existing building or premises devoted to a nonconforming use shall be enlarged, extended, reconstructed, substituted, or structurally altered except when changed to a conforming use, or when required to do so by law and as follows.

- A. Any nonconforming structure which has less than 50% of its previous existing floor area made unsafe or unusable may be restored, reconstructed, or used as before, provided that the floor area of the use, building, or structure shall not exceed the floor area which existed prior to the damage. All repairs shall be completed within one year after damages occur or the use shall not be rebuilt except as a conforming use.
- B. Normal maintenance repair and incidental alteration of a structure containing a nonconforming use is permitted, provided it does not extend the area or volume of space occupied by the nonconforming use. A building or other structure containing residential nonconforming uses may be altered in any way to improve interior livability. However, no structural alterations shall be made which would in any way increase the non-conformity of the use or structure, or create an additional non-conformity. Repairs, maintenance and additions may be made in order to bring the structure into conformity.

8.2.4 Termination of Nonconforming Uses and Structures

A nonconforming use not used for a period of six months or the change of use to a more restricted or conforming use for any period of time shall be considered an abandonment thereof and the nonconforming use shall not thereafter be revived. When 50% or more of the existing floor area of a nonconforming structure is destroyed by fire or other casualty or act of God and as a result becomes unsafe or unusable, the use of the structure, as a nonconforming use shall thereafter be terminated.

8.2.5 Special Provisions for Specific Nonconformities

- A. Nonconformity with the Stormwater Management Requirements of this Code In addition to the activities listed in Section 6.11 of this Code, an existing development that does not comply with the stormwater management requirements of this Code must be brought into full compliance with the stormwater management requirements of this Code, when the use of the development is intensified, resulting in an increase in stormwater runoff or added concentration of pollution in the runoff.

- B. Nonconforming Signs

- 1. Existing Signs
- 2. Nothing contained herein shall affect nonconforming signs in existence as of the effective date of these Land Development Regulations, Ord. 287, and which have been properly permitted for their intended purposes and which are properly maintained in good condition as required by this Code.
- 3. Continuation Of

A new sign permit approved by the Village Council shall be required if an existing sign is:

- a. Structurally changed to another nonconforming sign, but its pictorial content may be changed.
- b. Structurally altered to prolong the life of the sign, except to meet safety requirements.
- c. Altered in any manner that increases the degree of nonconformity.
- d. Expanded.
- e. Re-established after damage or destruction if the estimated cost of reconstruction exceeds fifty (50) percent of the appraised replacement cost as determined by the City.
- f. Continued in use when a conforming sign or sign structure shall be erected on the same parcel or unit.

- g. Continued in use when the structure housing the occupancy is demolished or requires renovations the cost of which exceeds fifty (50) percent of the assessed value of the structure.
- h. Continued in use after the structure housing the occupancy has been vacant for six (6) months or longer.

8.3 - SPECIAL EXCEPTION USES

- A. The Planning and Zoning Board shall review and recommend to the Village Council which shall hear and decide special exceptions; decide those questions that are involved in determining when special exceptions should be granted; grant special exceptions with appropriate conditions; or deny special exceptions when not in harmony with the purpose and intent of this Code. Special exception uses, as previously enumerated in Article VI, shall be permitted only upon authorization by the Village Council, provided that the uses shall be found to comply with the following requirements and any other applicable requirements:
 - 1. The use is set forth in the special exception uses for that district.
 - 2. The use is so designed, located, and proposed to be operated such that the public health, safety, and welfare, will be protected.
 - 3. The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.
 - 4. The use will be compatible with adjoining developments and the proposed character of the district where it is to be located.
- A. In granting any special exceptions, the Village Council, in addition to the standards enumerated in this chapter, may prescribe appropriate conditions in conformity with this chapter. Violation of the conditions, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Code. The Village Council may prescribe a reasonable time limit within which the action for which the special exception is required shall be begun, or completed, or both.
- B. Any person or entity desiring to operate a Retail or General Business Establishment within the Restricted Commercial District, may apply to the Village for a special exception, which shall, at a minimum, require presentations by the applicant of a detailed written explanation of the type or nature of the proposed business or operation; the total number of employees; the hours of operation; the estimated pedestrian and vehicular traffic to be generated daily by the proposed operation; the existing amenities available at the proposed location to accommodate both the existing operations or businesses, and a description of the types of operations or businesses existing at the proposed location. The Village Planning and Zoning Board may request additional information from the applicant in order to determine if the proposed operation is compatible with the uses generally listed in the Restricted Commercial District. The Village Planning and Zoning Board shall consider all of the criteria referenced in this section in determining whether the proposed operation or business is generally within the description and is compatible with the other permitted uses within the Restricted Commercial District.
- C. Any person or entity desiring to conduct or operate any business within the General Commercial District which is not listed or defined in Section 3.3.2 (E) under either General Commercial District or Retail or General Business Establishment, may apply to the Village for a special exception, which shall, at a minimum, require presentation by the applicant of a detailed written explanation of the type or nature of the proposed business or operation; the total number of employees; the hours of operation; the estimated pedestrian and vehicular traffic to be generated daily by the proposed operation; the existing amenities available at the proposed location to accommodate both the existing operations or businesses and the projected increase in pedestrian and vehicular traffic by the proposed operation or business, and a description of the types of operations or business existing at

the proposed location. The Village Planning and Zoning Board may request additional information from the applicant in order to determine if the proposed operation is compatible with the uses generally listed and whether the proposed use will have an adverse effect to the neighbors. The Village Planning and Zoning Board shall consider all of the criteria referenced in this section in determining whether the proposed operation or business is generally compatible with the other permitted uses and whether the proposed use will have an adverse effect on the neighbors.

8.4 - VARIANCES

8.4.1 General

A. Granted by Village Council

The Planning and Zoning Board shall review and recommend to the Village Council which may grant a variance from the strict application and any provision of this Code if the following procedures are followed and findings made.

B. Variances to be Considered

Any person desiring to undertake a development activity not in conformance with this Code may apply for a variance in conjunction with the application for development review. A development activity that might otherwise be approved by the Village Chief Building Official in consultation with Village Attorney must be approved by the Village Council if a variance is sought. The variance shall be granted or denied in conjunction with the application for development review.

8.4.2 Limitations on Granting Variances

A. Initial Determination

The Village Council shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are specific and unique to the property involved. If so, the Council shall make the following required findings based on the granting of the variance for that site alone.

B. Required Findings

1. The Village Council shall approve a variance from the terms of this Code if it is determined that the variance will not be contrary to the public interest and as set forth in Special Exception Uses, where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the Village Council must and shall find the following:
 - a. The variance is in fact a variance as set forth within this chapter and within the province of the Village Council.
 - b. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 - c. The special conditions and circumstances do not result from the actions of the applicant.
 - d. Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.
 - e. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
 - f. The variance granted is the minimum variance that will make possible the reasonable use of land, structure, or building.

- g. The grant of the variance will be in harmony with the general intent and purpose of this chapter, and the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
 - h. The variance request is not based exclusively upon a desire to reduce the cost of developing the site.
 - i. The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.
2. In granting any variance, the Village Council may prescribe appropriate in conformance with this chapter. Violation of the conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code. The Village Council may prescribe a reasonable time limit within which the action for which the variance is required shall be begun, or completed, or both. Under no circumstances except as permitted in division 1. above shall the Village Council grant a variance to permit a use not generally or by special exception permitted in the district involved or any use expressly or by implication prohibited by the terms of this chapter. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the authorization of a variance. Should no building permit be issued concerning the property which is the subject of the variance, then the variance issued concerning the property shall expire one year from the date the variance was approved. For good cause shown, application may be made prior to the expiration of the one-year period for an extension of the variance. The application shall be made before the Planning and Zoning Board who shall make recommendations to the Council. The Council's decision shall be final and binding and will require two public hearings before the village council.

8.4.4 Record of Variances to be Maintained

The Village Clerk shall maintain a record of all variances including the justification for their issuance and a copy of the notice of the variance.

8.5 - APPEALS

8.5.1 Procedure for Appeals to Village Council

- A. Should any interested party desire to appeal any action of the Village Council with regard to any matter concerning Chapter 16 entitled "Zoning and Land Use Development Regulations" (Code), then such interested person shall file an appeal in accordance with the Florida Rules of Civil Procedure to the Circuit Court Appellate Division within Miami-Dade County, Florida, within thirty (30) days from the date final action is taken by the Village Council on any such matter.
- B. All final action heretofore taken by the Village Council with regard to any matters contained in Chapter 16 or throughout the Chapter elsewhere as contained within the Code, ordinances or resolutions of the Village of Virginia Gardens, are hereby ratified and reaffirmed. (Ord.No. 275)

8.6 - RIGHT TO JUDICIAL REVIEW

Any person or persons, jointly or severally, aggrieved by any decision of the Village Council or any officer, department, board, or commission of the Village may apply to the circuit court in the judicial circuit where the Village Council is located for judicial relief within 30 days after rendition of the decision by the Village Council. The proceedings of the circuit court shall consist either of a trial de novo, which shall be governed by the Florida rules of civil procedure, or by petition for writ of certiorari, which shall be governed by the Florida appellate rules. The election of remedies shall lie with the appellate.

ARTICLE IX. - ADMINISTRATION AND ENFORCEMENT

9.1 - GENERAL

9.1.1 Purpose

This Article sets forth the agencies and boards and the application review procedures required for obtaining development orders, and certain types of permits. This Article also specifies the procedures for appealing decisions and seeking legislative action.

9.1.2 Withdrawal of Applications

An application for development review may be withdrawn at any time so long as no notice has been given that the application will be reviewed at a public hearing.

9.1.3 Development or Development Activity

Any of the following activities:

- A. Construction, clearing, filling, excavating, grading, paving, drilling or otherwise significantly disturbing the soil of a site.
- B. Building, installing, enlarging, replacing or substantially restoring a structure, impervious surface, or water management system, and including the long-term storage of materials.
- C. Subdividing land into three or more parcels.
- D. A tree removal for which authorization is required under this Code.
- E. Erection of a permanent sign unless expressly exempted by Article VII of this Code.

9.1.4 Procedures for Processing Variances and Land Use Applications

1. All land use applications shall be submitted in writing, in a form provided by the Village Clerk.
2. All land use applications shall be accompanied by all of the following:
 - A. A true and correct copy of the deed to the property;
 - B. A survey of the property showing the boundaries and all construction existing on the property, including a notation of:
 1. the exact amount of total square footage comprising the property,
 2. the total square footage of existing construction and impervious surfaces, and
 3. the percentage of impervious surface and non-impervious surfaces;
 - C. A survey depicting the proposed construction, use, or specific area affected by the land use sought; and
 - D. A full set of plans and specifications for the proposed projects.
3. All land use applications shall be reviewed by the building official for compliance with relevant building and land use codes, rules, and regulations, prior to proceeding to any hearing before the Planning and Zoning Board.
4. All land use application must be reviewed by the Village Attorney for compliance with relevant laws and land use regulations, prior to proceeding to any hearing before the Planning and Zoning Board.
5. The Village Clerk shall send via United States Mail, a written notice explaining the proposed land use sought to all resident or property owners within five hundred (500) feet from the property affected by the proposed land use application. This notice shall be sent out no less than thirty (30) days prior to the date when the matter is scheduled to be before the Planning and Zoning Board, and shall advise the residents or property owners of the date, time, and place of the meetings of the Planning and Zoning Board and Village Council at which the matter will be considered, advising the residents or property owners of their right to voice their position on the proposed application.
6. After review and approval for code and legal compliance and sufficiency, the application shall be placed on an agenda for hearing before the Planning and Zoning Board, which shall consider the

application and recommend for either approval or denial for the requested land use. The recommendation shall be transmitted to the Village Council through the Village Clerk, and placed on the agenda of the next Council meeting consistent with the notice sent to the residents.

7. All land use requests shall be adopted only by Ordinance, after two (2) hearings before the Village Council, adhering to the following procedure:
 - (1) written notice explaining the proposed land use change, shall be published/advertised no less than thirty (30) days prior to the first public hearing on the proposed land use ordinance;
 - (2) the Council shall hold two (2) advertised public hearings on the proposed land use ordinance, with an advertised notice at least five (5) days prior to the second hearing.

9.2 - AGENCIES AND BOARDS

9.2.1 Village Agencies and Entities

A. Meetings Of Village Council

Meetings of the Village Council with reference to zoning, variances and special exceptions shall be in accordance with the rules of procedure for regular Village Council meetings. This shall include, but not be limited to, the meeting being public, a record being made thereof and being on file with the Village Clerk, and a decisive vote shall be by the vote of a majority of Village Council members.

B. Special Masters

Special Masters designated and determined to be qualified by the Village Council shall have the authority to adjudicate code and ordinance violations concerning the subject matter, as provided for by the Florida statutes; the charter and ordinances by the Village having the same power as code enforcement boards.

9.2.2 Boards

A. Planning and Zoning Board

This Board shall have the duty to hear all matters concerning zoning and zoning variances. After hearing the matter before them, the Board shall make a written recommendation to the Village Council of the action they believe to be taken.

1. The Planning and Zoning Board shall establish rules and regulations for its own operation not inconsistent with the provisions of applicable state statutes or this chapter.
2. The Planning and Zoning Board shall meet at the call of the chairperson, at the written request of three or more regular members, or within 30 days after receipt of a matter to be acted on by the Board. Three members of the Board shall constitute a quorum. All meetings of the Board shall be public and a record of all resolutions, transactions, findings, and determinations shall be made, which shall be a public record on file in the office of the Village Clerk.

9.3 - AUTHORIZATION BY A DEVELOPMENT PERMIT REQUIRED PRIOR TO UNDERTAKING ANY DEVELOPMENT ACTIVITY

9.3.1 General

No development activity may be undertaken unless the activity is authorized by a development permit.

9.3.2 Prerequisites to Issuance of Development Permit

A development permit may not be issued unless the proposed development activity:

1. Is authorized by a Final Development Order issued pursuant to this Code; and

2. Conforms to the Miami-Dade County Chapter 28, Public Works Manual, Parts I and II, Standard Details and to the Miami-County Water and Sewer Department manual of standards and specifications, hereby adopted by reference.
3. Is located on a platted lot, except that the Village Council may waive platted lot compliance in accordance with Section 28-4 of the County Code.
4. Provides that public facilities and services to be furnished shall be guaranteed in an enforceable agreement.

9.3.3 Exceptions to Requirement of a Final Development Order

A development permit may be issued for the following development activities in the absence of a final development order issued pursuant to this Code. Unless otherwise specifically provided, the development activity shall conform to this Code.

- A. The construction or alteration of a one or two family dwelling on a lot in a valid recorded subdivision approved prior to the adoption of this Code. Compliance with development standards in this Code is not required if in conflict with the previously r approved plat.
- B. The alteration of an existing building or structure so long as no change is made to its gross floor area, its use, or the amount of impervious surface on the site, and it conforms to the standards given in Article VI.

9.3.4 Post-Permit Changes

After a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original permit. A written record of the modification shall be entered upon the original permit and maintained in the files of the Village.

9.4 - COMMENCEMENT OF DEVELOPMENT

If development is not commenced within one year from the date of approval of the site plan, the approval shall become null and void and the site may not be developed in accordance with the plan. If development is permitted in stages, subsequent stages may be commenced within 18 months after the completion of the previous stage; otherwise, such subsequent stage may not be developed in accordance with the previously approved plat and the approval shall be null and void. Commencement of construction shall include, where necessary, substantial site improvements which shall include, but not be limited to, active and continuous road improvements, excavation, grading and leveling, installation of utilities, and the like.

9.5 - TENTATIVE PLAT/PRELIMINARY DEVELOPMENT PLAN

9.5.1 Site Plan Review

- A. All new development and subdivision of real property into three or more lots or units shall be subject to site plan review. The purpose of the site plan review is to encourage logic, imagination, innovation, and variety in the design process and ensure the congruity of the proposed development and its compatibility with the surrounding area. The Planning and Zoning Board shall review plans for compliance with land use regulations and development standards of this Code for compliance with the site plan review criteria. The recommendations of the Planning and Zoning Board shall be transmitted to the Village Council for their consideration.

9.5.2 Review Procedure for Developments

- A. Application

Applications for all permitted uses with site plan review shall require the submission of a site development plan in accordance with the provisions of this section. No certificate of occupancy shall be

issued for any building or buildings unless all facilities included in the approved site plan have been provided.

B. Consultants Review

The Village may, if in its opinion it is necessary, retain consultants to assist in the review of an application for site plan review. The cost of retaining the consultants shall be borne by the applicant in the manner set forth within a separate ordinance concerning permit fees.

C. Submission Procedure

An application for a site plan review shall be made to the Review Coordinator prior to an application for a building permit and will only be accepted if all other ordinances and provisions of the Village where a public hearing is required have been complied with. Except as may otherwise be required by law or administrative procedures, all required county, regional, state, or federal agency approvals shall be obtained prior to the submission of an application for site plan review. The Planning and Zoning Board shall, as soon as possible, but within 60 days of the original acceptance date by the Village, review the Preliminary Plat application and recommend to the Village Council approval as submitted; approval with changes or special conditions; or disapproval. After review by the Planning and Zoning Board, the written recommendations of the Board shall be transmitted to the Council and a public hearing shall be conducted before the Council, who shall deny, approve, or approve the Preliminary Plat subject to certain conditions.

D. Public Hearing

A public hearing before the Council is required as set forth in division C above; however, any public hearing required by other provisions of this Code or other ordinances of the Village shall be held prior to site plan review.

9.5.3 Findings

The Village Council granting or denial of approval by written resolution shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth the reasons for the grant, with or without changes or special conditions, or for the disapproval. The resolution shall set forth with particularity in what respects the plan would or would not be in the public interest including, but not limited to findings of fact and conclusions on the following:

1. In what respect the plan is or is not consistent with the Comprehensive Plan and the purpose and intent of the land use district in which it is located.
2. In what respect the plan is or is not in conformance with Development Design and Improvement Standards, Article VI, or other Articles or provisions of this Code.

9.5.4 Submission Requirements

Any application for Preliminary Plat approval shall include the following information:

- A. The location and size of the site, including its legal description and a current certified survey.
- B. The recorded ownership interests including liens and encumbrances and the nature of the developer's interest if the developer is not the owner.
- C. The relationship of the site to existing development in the area including streets, utilities, residential and commercial development, and physical features of the land including pertinent ecological structures.
- D. The density or intensity of land use to be allocated to all parts of the site to be developed.
- E. The location, size, and character of any common open space and the form of organization proposed to own and maintain any common open space.
- F. The use and the number of stories and approximate height, bulk, and location of all buildings and other structures.

- G. The requirements as set forth in Article VI of this Code, including the necessary documentation for providing required improvements such as streets, water supply, storm drainage, parking, landscaping, and sewage collection as well as the provisions for all other appropriate public and private services such as police or security protection, fire protection, and refuse collection.
- H. The substance of covenants, grants of easements, or other restrictions proposed to be imposed upon the use of the land, buildings, and structures including proposed easements or grants for public utilities.
- I. In the case of plans which call for development over a period of years, a schedule showing the approximate times within which applications for building permits are intended to be filed.
- J. Any additional data, plans, or specifications which the applicant believes is pertinent and will assist in clarifying his application.
- K. A demonstration that the proposed development does not degrade adopted levels of service in the Village (see Article V).

9.6 - FINAL PLAT

9.6.1 Plat Requirements

All plats, replats, or petitions for waiver of plat shall comply with the following requirements:

- A. The provisions of Chapter 28 of the Miami-Dade County Code of Ordinances and the provisions of this Code.
- B. The final plat shall have incorporated all changes or modifications as required to make the Tentative Plat conform to the requirements of this Code. Otherwise, it shall conform to the Tentative Plat, and it may constitute only that portion of the approved Tentative Plat which the developer proposed to record and develop at the time, provided that such portion conforms with all requirements of this Code.
- C. No building permit shall be issued for any structure on a lot within the Village unless the lot is a lot within a plat which has been approved and recorded in the manner prescribed by law unless the recording of the plat is not required, waived, or excepted by this Code. All applications for plat, replat or waiver of plat shall be submitted to the Planning and Zoning Board on such forms and with attachments, exhibits, and information required by the Village and the County.
- D. The Planning and Zoning Board shall determine the following:
 - 1. Whether or not the proposed plat, replat or waiver of plat conflicts in any respect with the Comprehensive Plan of the Village.
 - 2. If all documents required by law and this Code are attached to the application.
 - 3. Whether the application is accompanied by a deposit of costs of no less than the amount given in the Article on fees and payable to the Village to defray the cost of the Village incurred in checking the application for plat, replat or waiver of plat and investigating all representations prior to final approval including survey and legal expense. All amounts in addition to the said sum shall be paid to the Village prior to recording of the plat, replat or waiver of plat. The applicant shall pay all County charges or fees.
 - 4. Requires improvements for a major development and that a Performance Bond be posted guaranteeing satisfactory completion of the project within three years. The amount shall equal one hundred ten (110) percent of the cost of improvements of which one hundred (100) percent of the bond shall be released upon completion of the improvements and ten (10) percent retained for one year for maintenance or correction of defects by the developer.
 - 5. Requires dedications or reservations.
 - 6. May be submitted to the Planning and Zoning Board for advisory opinion by the Mayor.

7. Upon approval by the Village Council, the applicant shall submit the proposed plat, replat or waiver of plat to the plat division of Miami-Dade County in accordance with law. Upon approval by the County Plat Division, the plat, replat or waiver of plat shall be recorded in the records of the office of the Clerk of the Circuit Court.

9.7 - REQUIREMENTS FOR SPECIAL APPLICATIONS

A. Conversions

No single-family dwelling shall be converted to any other use except the use granted at the time a building permit was applied for, with the exception that a single-family dwelling may be rented as a single-family dwelling, but not as a multiple-family dwelling. Conversions of multi-family units from rentals to any form of individual ownership shall be in compliance with all provisions of this Code. Each dwelling shall have adequate light, air, heating, and plumbing facilities. All density and lot area requirements for the converted structure within the district in which it is located shall be complied with provided that each converted dwelling unit shall have at least 800 square feet of floor area.

B. Requirements

The over-all density shall not exceed the maximum permitted in the district.

9.7.1 Additions to Single-Family Residences

A. Building Permits

Prior to the issuing of any building permits for additions, the applicant or owner of the premises wherein said addition is to occur shall file an affidavit stating that the addition will not be used for rental purposes while the owner resides on the property and if the residence is rented in its entirety, no portion of said premises should be separated for rental.

9.8 - AUTHORITY OF VILLAGE COUNCIL

The Village Council may, from time to time, amend, supplement, or repeal the regulations of this chapter after public notice and hearings provided by law and upon initiation on its own motion or on petition.

A. Zoning and Land Development Regulations Powers of Village Council

The Village Council shall be empowered to act as the final body with regard to any and all powers and duties enumerated under Chapter 16 of the Code entitled "Zoning and Land Development Regulations". Its decision shall be final and all matters before it shall be deemed quasi-judicial in nature subject to its sole discretion and reviewable only to the extent of such action being arbitrary and capricious. It may at any time waive the requirements of Section 2-95 of the Village Code (Planning and Zoning Board) provided, however, no such waiver shall be effective unless there is a 4/5th vote of the Council. Notwithstanding recommendations made by the Planning and Zoning Board, the Council may consider any matter under Chapter 16 de novo and not be bound by such recommendation.

B. Procedures to Appeal Zoning Decisions of the Village Council

Should any interested party desire to appeal any action of the Village Council with regard to any matter concerning Chapter 16 entitled "Zoning and Land Development Regulations", then such interested person shall file an appeal in accordance with the Florida Rules of Civil Procedure to the Circuit Court Appellate Division within Miami-Dade County, Florida, within thirty (30) days from the date final action is taken by the Village Council on any such matter.

9.9 - PETITION BY PROPERTY OWNERS

Whenever the fee simple owner of any property desires a change in land use classification, a change of conditions or regulations of any district, or any other provision of this chapter, he shall make written

application to the Village Clerk in a form as provided by the Village together with evidence that a deposit of the appropriate fee as set forth in a separate ordinance to cover the cost of notice for a public hearing therein has been made with the Village. The written application shall be signed by the owner or his agent. The application shall be accompanied by any necessary information or documentation supporting the request and shall be reviewed in accordance with the provisions of this chapter and the applicable state law. The Planning and Zoning Board, regardless of the source of the proposed change, shall hold a public hearing or hearings thereon, with due public notice but shall in any case if any change is to be considered by the Planning and Zoning Board, submit in writing its recommendations on the proposed change to the governing body for official action. The Village Council shall then proceed to amend, supplement, repeal, or leave unchanged the regulations in accordance with the applicable provision of local and state law.

ARTICLE X. - FLOODPLAIN MANAGEMENT

10.1 - ADMINISTRATION

A. Application for a Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing and proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

1. Application Stage:

- a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
- b) Elevation in relation to mean sea level to which any non-residential building will be flood-proofed;
- c) Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria in Article 4, Section A (2) and Article 5, Section B (2);
- d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
- e) Elevation in relation to mean sea level of the bottom of the lowest horizontal structural member of the lowest floor and provide a certification from a registered engineer or architect indicating that they have developed and/or reviewed the structural designs, specifications and plans of the construction and certified that are in accordance with accepted standards of practice in Coastal High Hazard Areas.

2. Construction Stage:

Upon placement of the lowest floor, or flood-proofing by whatever construction means, or bottom of the lowest horizontal structural member it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NGVD or NAVD elevation of the lowest floor or flood-proofed elevation, or bottom of the lowest horizontal structural member of the lowest floor as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood proofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor and flood-proofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct violations detected by such review. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

B. Duties of the Administrator shall include, but are not be limited to:

1. Review permits to assure sites are reasonably safe from flooding;
2. Review all development permits to assure that the permit requirements of this ordinance have been satisfied;
3. Require copies of additional Federal, State of Florida, or local permits, especially as they relate to Chapters 161.053; 320.8249; 320.8359; 373.036; 380.05; 381.0065; and 553, Part IV, Florida Statutes, be submitted along with the development permit application and maintain such permits on file with the development permit;
4. Notify adjacent communities, the Florida Department of Community Affairs - Division of Emergency Management - NFIP Coordinating Office, South Florida Water Management District, the Federal Emergency Management Agency, and other Federal and/or State of Florida agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;
5. Assure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained;
6. Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A-Zones) or bottom of the lowest horizontal structural member of the lowest floor (V-Zones) of all new and substantially improved buildings, in accordance with Article 5, Section B (1) and (2) and Section E (2), respectively;
7. Verify and record the actual elevation (in relation to mean sea level) to which the new and substantially improved buildings have been flood-proofed, in accordance with Article 5, Section B (2);
8. Review certified plans and specifications for compliance. When flood-proofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect certifying that all areas of the building, together with attendant utilities and sanitary facilities, below the required elevation are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy in compliance with Article 5, Section B (2) of this ordinance. In Coastal High Hazard Areas, certification shall be obtained from a registered professional engineer or architect that the building is designed and securely anchored to pilings or columns in order to withstand velocity waters and hurricane wave wash. Additionally in Coastal High Hazard Areas, if the area below the lowest horizontal structural member of the lowest floor is enclosed, it may be done so with open wood lattice and insect screening or with non-supporting breakaway walls that meet the standards of Article 5, Section E (6) of this ordinance;
9. Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the Floodplain Administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article;
10. When base flood elevation data and floodway data have not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State of Florida, or any other source, in order to administer the provisions of Article 5;
11. Coordinate all change requests to the FIS, FIRM and FBFM with the requester, State of Florida, and FEMA, and
12. Where Base Flood Elevation is utilized, obtain and maintain records of lowest floor and flood proofing elevations for new construction and substantial improvements in accordance with Article 5, Sections B (1) and (2), respectively.

10.2 - PROVISIONS FOR FLOOD HAZARD REDUCTION

A. GENERAL STANDARDS.

In all areas of special flood hazard, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:

1. New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State of Florida requirements for resisting wind forces;
3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
5. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
9. Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance;
10. Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not furthered, extended, or replaced;
11. All applicable additional Federal, State of Florida, and local permits shall be obtained and submitted to the Floodplain Administrator along with the application for development permit. Copies of such permits shall be maintained on file with the development permit. State of Florida permits may include, but not be limited to, the following:
 - a. South Florida Water Management District in accordance with Chapter 373.036 Florida Statutes, Section (2)(a) Flood Protection and Floodplain Management;
 - b. Department of Community Affairs: in accordance with Chapter 380.05 F.S. Areas of Critical State Concern, and Chapter 553, Part IV F.S., Florida Building Code;
 - c. Department of Health: in accordance with Chapter 381.0065 F.S. Onsite Sewage Treatment and Disposal Systems; and
12. Standards for Subdivision Proposals and other new Proposed Development (including manufactured homes):
 - a. Such proposals shall be consistent with the need to minimize flood damage;
 - b. Such shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage; and

- c. Such proposals shall have adequate drainage provided to reduce exposure to flood hazards.

B. SPECIFIC STANDARDS.

In all A-Zones where base flood elevation data have been provided (Zones AE, A1-30, A (with base flood elevation), and AH), as set forth in Article 3, Section B, the following provisions, in addition to those set forth in Article 5, Section A, shall apply:

1. Residential Construction. All new construction and substantial improvement of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, there must be a minimum of two openings on different sides of each enclosed area sufficient to facilitate automatic equalization of flood hydrostatic forces in accordance with standards of Article 5, Section B (3).
2. Non-Residential Construction. All new construction and substantial improvement of any commercial, industrial, or non-residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings located in A-Zones may be flood-proofed, in lieu of being elevated, provided that all areas of the building components, together with attendant utilities and sanitary facilities, below the base flood elevation plus one foot are water tight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the Floodplain Administrator.
3. Enclosures below the Lowest Floor. New construction and substantial improvements that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
 - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet or exceed the following minimum criteria:
 - i. Provide a minimum of two openings on different sides of each enclosed area having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - ii. The bottom of all openings shall be no higher than one foot above adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and
 - iii. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.
 - b. Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and
 - c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.
4. Standards for Manufactured Homes and Recreational Vehicles
 - a. All manufactured homes that are placed, or substantially improved within Zones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a

new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, the lowest floor be elevated on a permanent foundation to no lower than one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

b. All recreational vehicles must either:

- i. Be on the site for fewer than 180 consecutive days,
- ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions), or
- iii. Meet all the requirements for new construction, including anchoring and elevation standards in accordance with Article 5, Section B (4) (a) and (b).

5. Adequate drainage paths around structures shall be provided on slopes to guide water away from structures within Zone AH.

6. Standards for waterways with established Base Flood Elevations, but without Regulatory Floodways

Located within the areas of special flood hazard established in Article 3, Section B, where streams exist for which base flood elevation data has been provided by the Federal Emergency Management Agency without the delineation of the regulatory floodway (Zones AE and A1-30), the following provisions, in addition to those set forth in Article 5, Section B (1) through (5), shall apply:

- (a) Until a regulatory floodway is designated, no new construction, substantial improvements, or other development including fill shall be permitted within the areas of special flood hazard, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (b) Development activities which increase the water surface elevation of the base flood by more than one foot may be allowed, provided that the developer or applicant first applies - with the community's endorsement - for a conditional FIRM revision, and receives the approval of the Federal Emergency Management Agency (FEMA).

(7) Standards for waterways with established Base Flood Elevations and Floodways.

Located within areas of special flood hazard established in Article 3, Section B, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the high velocity of flood waters which carry debris, potential projectiles and have significant erosion potential, the following provisions, in addition to those set forth in Article 5, Section B (1) through (5), shall apply:

- (a) Prohibit encroachments, including fill, new construction, substantial improvements and other developments within the regulatory floodway unless certification (with supporting technical data) by a registered professional engineer is provided through hydrologic and hydraulic analyses performed in accordance with standard engineering practice demonstrating that encroachments would not result in any increase in flood levels during occurrence of the base flood discharge.
- (b) Development activities including new construction and substantial improvements within the regulatory floodway that increase the base flood elevation may be allowed, provided

that the developer or applicant first applies - with the community's endorsement - for a conditional FIRM revision, and receives the approval of FEMA.

- (c) When fill is proposed, in accordance with the permit issued by the Florida Department of Health, within the regulatory floodway, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood in accordance with Article 5, Section B (7) (a).

C. SPECIFIC STANDARDS FOR A-ZONES WITHOUT BASE FLOOD ELEVATIONS AND REGULATORY FLOODWAYS.

Located within the areas of special flood hazard established in Article 3, Section B, where there exist A Zones for which no base flood elevation data and regulatory floodway have been provided or designated by the Federal Emergency Management Agency, the following provisions shall apply:

- (1) Require standards of Article 5, Section A.
- (2) Require that all new subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than 50 lots or 5 acres, whichever is the lesser, include within such proposals base flood elevation data. Standards set forth in Article 5, Section B shall apply.
- (3) The Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State of Florida, or any other source, in order to administer the provisions of this ordinance. When such data is utilized, provisions of Article 5, Section B shall apply. The Floodplain Administrator shall:
 - a) Obtain the elevation (in relation to the mean sea level) of the lowest floor (including the basement) of all new and substantially improved structures,
 - b) Obtain, if the structure has been flood proofed in accordance with the requirements of Article 5, Section B (2), the elevation in relation to the mean sea level to which the structure has been flood proofed, and
 - c) Maintain a record of all such information.
- (4) Notify, in riverine situations, adjacent communities, the Florida Department of Community Affairs - NFIP Coordinating Office, and the South Florida Water Management District prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- (5) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (6) Manufactured homes shall be installed using methods and practices that minimize flood damage. They must be elevated and anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State of Florida and local anchoring requirements for resisting wind forces.
- (7) When the data is not available from any source, in accordance with standard set forth in Article 5, Section C (2) of this Section, the lowest floor of the structure shall be elevated to no lower than three feet above the highest adjacent grade. Standards set forth in Article 5, Section B shall apply.

D. STANDARDS FOR AO-ZONES

Located within the areas of special flood hazard established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and the path of flooding is unpredictable and indeterminate; therefore, the following provisions, in addition to Article 5, Section A, apply:

- 1. All new construction and substantial improvements of residential structures in all AO Zones shall have the lowest floor, including basement, elevated above the highest adjacent grade at least

as high as the depth number specified in feet on the Flood Insurance Rate Map plus one foot. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to no less than three feet above the highest adjacent grade.

2. All new construction and substantial improvements of non-residential structures shall:
 - a) Have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the Flood Insurance Rate Map. If no flood depth number is specified, the lowest floor, including basement, shall be elevated to at least three feet above the highest adjacent grade, or
 - b) Together with attendant utility and sanitary facilities be completely floodproofed to no less than one foot above that level to meet the floodproofing standard specified in Article 5, Section D (2) (a).
- (3) Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.
- (4) Fully enclosed areas below the lowest floor that are subject to flooding shall meet the non-elevation design requirements of Article 5, Section B.

10.3 - VARIANCE PROCEDURES

A. DESIGNATION OF VARIANCE AND APPEALS BOARD.

The Village Council of Virginia Gardens shall hear and decide appeals and requests for variances from the requirements of this ordinance.

B. DUTIES OF VARIANCE AND APPEALS BOARD.

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Management Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Circuit Court.

C. VARIANCE PROCEDURES.

In acting upon such applications, the Village Council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

1. The danger that materials may be swept onto other lands to the injury of others;
2. The danger of life and property due to flooding or erosion damage;
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. The importance of the services provided by the proposed facility to the community;
5. The necessity to the facility of a waterfront location, where applicable;
6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. The compatibility of the proposed use with existing and anticipated development;
8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
10. The expected heights, velocity, duration, rate of rise, and sediment of transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

11. 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, and streets and bridges.

D. CONDITIONS FOR VARIANCES.

1. Variances shall only be issued when there is:
 - a) A showing of good and sufficient cause;
 - b) A determination that failure to grant the variance would result in exceptional hardship; and
 - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
2. Variances shall only be issued upon a determination that the variance is the minimum necessary deviation from the requirements of this ordinance.
3. Variances shall not be granted after-the-fact.
4. The Floodplain Administrator shall maintain the records of all variance actions, including justification for their issuance or denial, and report such variances in the community's NFIP Biennial Report or upon request to FEMA and the State of Florida, Department of Community Affairs, NFIP Coordinating Office.

E. VARIANCE NOTIFICATION.

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

1. The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
2. Such construction below the base flood level increases risks to life and property.

A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the Clerk of Court and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

F. HISTORIC STRUCTURES.

Variances may be issued for the repair or rehabilitation of "historic" structures - meeting the definition in this ordinance - upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a "historic" structure.

G. STRUCTURES IN REGULATORY FLOODWAY.

Variances shall not be issued within any designated floodway if any impact in flood conditions or increase in flood levels during the base flood discharge would result.

10.4 - DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

Accessory structure (appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard is the land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This term is synonymous with the phrase "special flood hazard area."

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" and the "regulatory flood"). Base flood is the term used throughout this ordinance.

Base Flood Elevation means the water-surface elevation associated with the base flood.

Basement means any portion of a building having its floor sub-grade (below ground level) on all sides.

Building - see Structure.

Datum [means] a reference surface used to ensure that all elevation records are properly related. The current national datum is the National Geodetic Vertical Datum (NGVD) of 1929, which is expressed in relation to mean sea level, or the North American Vertical Datum (NAVD) of 1988.

Development means any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or storage of materials or equipment.

Elevated building means a non-basement building built to have the lowest floor elevated above the ground level by foundation walls, posts, piers, columns, pilings, or shear walls.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Construction means, for the purposes of floodplain management, structures for which "the start of construction" commenced before September 17, 1992. Existing construction, means for the purposes of determining rates structures for which the "start of construction" commenced before January 1, 1975, This term may also be referred to as "existing structures".

Flood or flooding means:

- (a) general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters.
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.
 - 3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a) (2) of this definition and are akin to a river of liquid and flowing mud on the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along a shore of a lake or other body of water as the result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.

Flood Boundary and Floodway Map (FBFM) means the official map of the community on which the Federal Emergency Management Agency (FEMA) has delineated the areas of special flood hazard and regulatory floodways.

Flood Hazard Boundary Map (FHBM) means an official map of the community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as only Approximate Zone A.

Flood Insurance Rate Map (FIRM) means an official map of the community, issued by FEMA, which delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study (FIS) means the official hydrology and hydraulics report provided by FEMA. The study contains an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and other flood-related erosion hazards. The study may also contain flood profiles, as well as the FIRM, FHBM (where applicable), and other related data and information.

Floodplain means any land area susceptible to being inundated by water from any source (see definition of "flooding").

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Administrator is the individual appointed to administer and enforce the floodplain management regulations of the community.

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power which control development in flood-prone areas. This term describes Federal, State of Florida, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway means 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 a designated height.

Floodway fringe means that area of the one-percent (base or 100-year) floodplain on either side of the regulatory floodway.

Freeboard means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, blockage of bridge or culvert openings, and hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the heights calculated for a selected frequency flood and floodway conditions.

Free of Obstruction means any type of lower area enclosure or other construction element will not obstruct the flow of velocity water and wave action beneath the lowest horizontal structural member of the lowest floor of an elevated building during a base flood event. This requirement applies to the structures in velocity zones (V-Zones).

Functionally dependent use means a use that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

Hardship, as related to variances from this ordinance, means the exceptional difficulty associated with the land that would result from a failure to grant the requested variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

Historic Structure means any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic or a district preliminarily determined by the Secretary to qualify as a registered historic district:
- c) Individually listed on the Florida inventory of historic places, which has been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By the approved Florida program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior.

Lowest adjacent grade means the lowest elevation, after the completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design standards of this ordinance.

Manufactured home means a building, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the building value, which is the property value excluding the land value and that of the detached accessory structures and other improvements on site (as agreed to between a willing buyer and seller) as established by what the local real estate market will bear. Market value can be established by an independent certified appraisal (other than a limited or curbside appraisal, or one based on income approach), Actual Cash Value (replacement cost depreciated for age and quality of construction of building), or adjusted tax-assessed values.

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, or North American Vertical Datum (NAVD) of 1988.

National Geodetic Vertical Datum (NGVD) of 1929 means a vertical control used as a reference for establishing varying elevations within the floodplain.

New Construction means, for floodplain management purposes, any structure for which the "start of construction" commenced on or after September 17, 1992. The term also includes any subsequent improvements to such structures. For flood insurance rates, structures for which the start of construction commenced on or after December 31, 1974, and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the first floodplain management code, ordinance or standard.

North American Vertical Datum (NAVD) of 1988 means a vertical control used as a reference for establishing varying elevations within the floodplain.

Principally above ground means that at least 51 percent of the actual cash value of the structure is above ground.

Program deficiency means a defect in the community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations or of the standards required by the National Flood Insurance Program.

Public safety and nuisance means anything which is injurious to safety or health of the entire community or a neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Reasonably safe from flooding means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

Recreational vehicle means a vehicle that is:

- a) Built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projection;
- c) Designed to be self-propelled or permanently towable by a light duty truck; and
- d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory floodway means 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 a designated height.

Remedy a deficiency or violation means to bring the regulation, procedure, structure or other development into compliance with State of Florida, Federal, or local floodplain management regulations; or if this is not possible, to reduce the impacts of its noncompliance. Ways the impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Repetitive loss means flood related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Sand dune means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Shallow flooding - see area of shallow flooding.

Special flood hazard area - see area of special flood hazard.

Start of construction means, for other than new construction and substantial improvements under the Coastal Barrier Resources Act P. L. 97-348, includes substantial improvement, and means the date the building permit was issued, 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 a manufactured 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 placement of a manufactured 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 or not part of the main building. For 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.

Storm cellar means a place below grade used to accommodate occupants of the structure and emergency supplies as a means of temporary shelter against severe tornadoes or similar windstorm activity.

Structure means, for floodplain management purposes, a walled and roofed building, including gas or liquid storage tank that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. This term also includes "repetitive loss" structures as defined herein.

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not, however, include any repair or improvement of a structure to correct existing violations of State of Florida or local health, sanitary, or safety code specifications, which have been identified by the local code enforcement official prior to the application for permit for improvement, and which are the minimum necessary to assure safe living conditions. This term does not include any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance is a grant of relief from the requirements of this ordinance.

Violation means the failure of a structure or other development to be fully compliant with the requirements of this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE XI. - WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS

11.1 - INTENT

The regulations, requirements, and standards contained herein are intended to establish procedures and guidelines for the siting of wireless telecommunication towers and antennas and to accomplish the following:

- (1) To protect and promote the public health, safety, and general welfare of the residents of the Village.
- (2) To protect the residential areas and other appropriate land uses from the potential adverse impacts of towers and antennas.
- (3) To encourage the location of towers and antennas in non-residential areas and to locate such facilities, to the extent possible, in areas where the adverse impact on the community is minimal.
- (4) To minimize the total number of towers and antennas throughout the community by strongly encouraging the co-location of antennas on new pre-existing tower sites as a primary option rather than the construction of additional single-use towers.
- (5) To encourage users of towers and antennas to configure them in a manner that minimizes their adverse visual impact on the adjacent community by utilizing careful design, siting, landscaping screening and innovative camouflaging techniques.
- (6) To enhance the ability of the providers of telecommunications services to provide such services to the community through an efficient and timely process.

In furtherance of the foregoing, the Village shall, however, provide appropriate consideration to its master plan, zoning code and map, existing land uses, and all environmentally sensitive areas in approving sites for proposed wireless telecommunication towers and antennas.

11.2 - DEFINITIONS

As used in the Article, the following terms shall have the meanings set forth below, which shall control over any other definitions contained in this Code.

Antenna means a transmitting and/or receiving device mounted on a tower, building or structure and used in telecommunications [personal wireless] services that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, directional antennas such as panel and microwave dish antennas, and omni-directional antennas such as whips, but excluding radar antennas, amateur radio antennas and satellite earth stations.

Guyed Tower means a telecommunications tower that is supported in whole or in part, by guy wires and ground anchors.

Microwave Dish Antenna means a dish-like antenna used to link communication [personal wireless service] sites together by wireless transmission of voice or data.

Monopole Tower means a communication tower consisting of a single pole or pole self-supported on a permanent foundation, constructed without guy wires, ground anchors, or other supports.

Lattice Tower means a communication tower that is constructed to be self-supporting by lattice type supports and without the use of guy wires or other supports.

Pre-existing Towers and Pre-existing Antennas means any tower or antenna for which a building permit has been properly issued prior to January 21, 1999.

Stealth Facility means any telecommunications facility which is designed to blend into the surrounding environment. For example, architecturally screened roof mounted antennae, building-mounted antennae painted to match the existing structure, antennae integrated into architectural elements, and communication towers designed to look like light poles, power poles, or trees.

Telecommunications Facility means a facility that is used to provide one or more telecommunications services, including, without limitation, radio transmitting towers, other supporting structures, and associated facilities used to transmit telecommunications signals. An open video system is not a telecommunications facility to the extent that it provides only cable service.

Telecommunications Services means the offering of telecommunication (or transmission between or among points, specified by the user of information of the user's choosing, without change in the form or content of the information as sent and received), for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. Personal wireless communication services shall not be considered as essential services, public utilities or private utilities.

Telecommunications Tower means any structure, and support thereto, designed and constructed primarily for the purpose of supporting one or more antennas intended for transmitting or receiving personal wireless services, telephone, radio and similar communication purposes, including radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, among others. Whip Antenna means cylindrical antenna that transmits signals 360 degrees.

11.3 - APPLICABILITY

All new towers or antennas in the Village shall be subject to these regulations. However, this Article shall not govern any tower, or the installation of any antenna, that is for the use of a broadcasting facility owned and operated by a federally-licensed amateur radio station operator or is used exclusively for "receive only" antennas.

11.4 - GENERAL REQUIREMENTS AND STANDARDS

Every new telecommunications tower and antenna shall be subject to the following minimum standards.

11.4.1 Lease Required

Any construction, installation, or placement of a telecommunications facility on any property owned, leased or otherwise controlled by the Village shall require a Lease Agreement executed by the Village and the owner of the facility. No lease granted in regard to this Article shall convey any exclusive right, privilege, permit or franchise to occupy or use the public lands of the Village for delivery of telecommunication services or any other purpose. In addition, no lease granted under this Section shall convey any right, title or interest in the public lands other than a leasehold interest, but shall be deemed only to allow the use of the public lands for the limited purposes and terms stated in the lease. No lease shall be construed as a conveyance of a title interest in the property.

11.4.2 Review of Existing Sites/Application for Use

- (a) Each applicant shall review all existing towers, antennas, and approved sites in the Village prior to filing an application for construction of any new tower or antenna. All requests for sites shall include specific information about the proposed location, height, and design of the proposed towers. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Village that there is no existing tower, structure or state of the art technology that does not require the use of new towers or new structures to accommodate the applicant's proposed antenna and that the new tower will be constructed in a manner that will permit, accommodate and encourage future co-location thereon by other telecommunication providers. Evidence submitted to demonstrate that no existing tower, structure or state of the art technology is suitable shall consist of any of the following:
 - i. An evaluation of the feasibility of sharing a tower, indicating that existing towers or structures located within the geographic search area, as determined by a radio frequency engineer, do not have the capacity to provide reasonable technical service consistent with the applicant's technical system, including but not limited to, applicable FCC requirements.

- ii. Existing towers or structures are not of sufficient height to meet the applicant's requirements which are, in turn, in compliance with all applicable FCC rules and regulations.
 - iii. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - iv. That applicant's proposed antenna would cause electromagnetic/radio frequency interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structure would cause interference with the applicant's proposed antenna.
 - v. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 - vi. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 - vii. The applicant demonstrates that state of the art technology used in the wireless telecommunications business, and within the scope of applicant's FCC license, is unsuitable. Costs of state of the art technology that exceed new tower or antenna development shall not be presumed to render technology unsuitable.
- (b) The Village may share such information with other applicants or other organizations seeking to locate antennas within the jurisdiction of the Village provided, however, that the Village is not, by sharing such information, in any way representing or warranting that such information is accurate or that such sites are available or suitable.

11.4.3 Engineering Report

- (a) All applicants for new towers and towers which are to be modified or reconstructed to accommodate additional antennas shall submit a written report certified by a professional engineer licensed to practice in the State of Florida. The report shall include:
- i. Site development plan, drawn to scale, including without limitation, a legal description of the parent tract and leased parcel, if applicable, on-site and adjacent land uses, Master Plan classification of the site, and a visual impact analysis and photo digitalization of the tower and all attachments, including associated buildings and equipment containers at the property line, as well as at a distance of 150 feet and 250 feet from all properties adjacent to the proposed site.
 - ii. If applicable, a narrative of why the proposed tower cannot comply with the requirements as stated in this section.
 - iii. Type of tower and specifics of design.
 - iv. Current wind-loading capacity and a projection of wind-loading capacity using different types of antennas as contemplated by the applicant. No tower shall be permitted to exceed its wind-loading capacity.
 - v. A statement that the proposed tower, including reception and transmission functions, will not interfere with the visual and customary transmission or reception of radio, television or similar services as well as other wireless services enjoyed by adjacent residential and non-residential properties.
 - vi. A statement of compliance with all applicable building codes, associated regulations and safety standards. For all towers attached to existing structures, the statement shall include certification that the structure can support the load superimposed from the tower. All towers shall have the capacity to permit multiple users and be designed and constructed in such a manner as to accommodate all anticipated advancements in technology that will allow the expanded multiple

use thereof. At a minimum, monopole towers shall be able to accommodate four users, and at a minimum, self-support/lattice or guyed towers shall be able to accommodate five users.

- vii. Any additional information deemed by the Village to be necessary to assess compliance with this Article.

11.4.4 Co-Location

Pursuant to the intent of this Article, co-location of telecommunication antennas by more than one provider on existing telecommunication towers shall take precedence over the construction of new telecommunications towers. Accordingly, in addition to submitting the information previously required herein, each application shall include a written report certified by a professional engineer licensed to practice in the State of Florida, stating:

- (a) The geographical service area requirements.
- (b) Mechanical or electrical incompatibility.
- (c) Any restrictions or limitations of the Federal Communications Commission that would preclude the shared use of the tower.
- (d) Any additional information required by the Village.

If the Village does not accept the full evaluation as provided as accurate, or if the Village disagrees with any part of the evaluation required by this Section, the application review process shall be halted until a review and evaluation meeting with the Village Mayor or the Mayor's designee can be jointly conducted by and between the Village staff, its professional advisors and the applicant. This meeting shall be scheduled as soon as is reasonably possible once a review disagreement is determined to exist.

11.4.5 Co-Location; Tenant Rental Fees

Pursuant to the intent of this Article, the Village shall provide the following incentives to service providers:

- (a) The review of all applications submitted by providers seeking to co-locate on a pre-existing tower or to rent space on a proposed new tower, shall be completed by the Village on an expedited basis following the filing of a completed application as required by this Article.
- (b) In order to be consistent with the Village's intent to encourage co-location in every possible appropriate circumstance, Tower owners regulated by this Article shall not charge providers seeking to co-locate on the tower in excess of the Fair Market Value for the space, as determined at the time of the request for co-location. Any attempt by a tower owner to discourage co-location by changing rates in violation of this provision shall be subject to appropriate sanctions as provided in the lease documents between the Village and the tower owner.

11.4.6 Aesthetics

Towers and antennas shall meet the following requirements:

- (a) Towers shall, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- (b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings to minimize the visual impact.
- (c) All tower sites must provide all reasonable landscaping that the Village may require in order to enhance compatibility with adjacent residential and non-residential land uses. All landscaping shall be properly maintained to ensure good health and viability at the owner's expense. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound consisting of the telecommunications tower and antennas, network connection equipment and any structure or equipment cabinet from all adjacent properties. The

minimum landscape buffer area shall consist of a landscaped strip at least four feet wide outside the perimeter of the tower compound. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. If trees are removed for the tower construction, the tower owner must replace all removed trees elsewhere on the site, re-locate or plant like trees in other areas of the Village to be designated by the Village Building Department, or make an appropriate contribution to the Village Tree Replacement Trust Fund. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be utilized to provide the required landscape buffer area.

- (d) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

11.4.7 Lighting

No signals, artificial lights, or illumination shall be permitted on any antenna or tower unless required by the FAA or other applicable authority. If lighting is required, the lighting alternative and design chosen must cause the least disturbance to the surrounding views.

11.4.8 Setbacks

Towers must be set back a minimum distance of 110% of the height of the tower.

11.4.9 Separation

Each tower shall be separated from any other tower by a distance of no less than one (1) mile as measured by a straight line between the bases of the towers.

11.4.10 Height

The maximum height for any tower shall be one hundred fifty (150) feet.

11.4.11 Local, State, or Federal Requirements

The construction, operation and repair of telecommunication facilities are subject to the supervision of the Village, and shall be performed in compliance with all laws, ordinances and practices affecting such system. The construction, operation and repair shall be performed in a manner consistent with applicable industry standards, including the Electronic Industries Association. All telecommunication towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, including emissions standards, and any other agency of the local, state or federal government with the authority to regulate towers and antennas prior to issuance of a building permit by the Village. If such applicable standards and regulations require retroactive application, then the owner of the towers and antennas governed by this Article shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency, failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

11.4.12 Building Codes; Safety Standards

- (a) To insure the structural integrity of towers, the owner shall construct and maintain the tower in compliance with the Florida Building Code, and all other applicable codes and standards, as may be amended from time to time. A statement shall be submitted by a professional engineer certifying compliance with this subsection. Where a preexisting structure, including light and power poles, is requested as a stealth facility, the facility, and all modifications thereof, shall comply with all requirements as provided in this Article. Following the issuance of a building permit, the Village shall require an analysis of a soil sample from the base of the tower site.

- (b) If, upon inspection, the Village concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have no more than thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

11.4.13 Warning Signs

Notwithstanding any contrary provisions contained in the Village's Code of Ordinances, the following shall be utilized in connection with any tower or antenna site, as applicable.

- (a) If high voltage is necessary for the operation of the communication tower or any accessory structures, "HIGH VOLTAGE-DANGER: warning signs shall be permanently attached to the fence or wall surrounding the structure and spaced no more than forty (40) feet apart.
- (b) "NO TRESPASSING" warning signs shall be permanently attached to the fence or wall surrounding the ground level of equipment or structures and spaced no more than forty (40) feet apart.
- (c) The height of the lettering of the warning signs shall be at least twelve (12) inches in height. The warning signs shall be installed at least five (5) feet above the finished grade.
- (d) The warning signs may be attached to free standing poles if the content of the signs may be obstructed by landscaping.

11.4.14 Security Fencing

Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Village may waive such requirements.

11.4.15 Measurement

For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Village irrespective of municipal and county jurisdictional boundaries.

11.4.16 Not Essential Services

Towers and antennas shall be regulated and permitted pursuant to this Article and shall not be regulated or permitted as essential services, public utilities, or private utilities.

11.4.17 Franchises/Licenses

Owners and/or operators of towers or antennas shall certify that all franchises/licenses required by law for the construction and/or operation of a wireless communication system in the Village have been obtained and shall file copies of all required franchises/licenses with the Village.

11.4.18 Signs

No signs, including commercial advertising, logo, political signs, flyers, flags, or banners, whether or not posted temporarily, shall be allowed on any part of an antenna or tower.

11.4.19 Buildings and Support Equipment

Buildings and support equipment associated with antennas or towers shall comply with the requirements set forth in Section I of this Article.

11.4.20 Inspection; Reports; Fees

- (a) Telecommunication tower owners shall submit a report to the Village certifying structural and electrical integrity every two years. The report shall be accompanied by a non-refundable fee of Two Hundred Dollars (\$200.00) to reimburse the Village for the cost of review.

- (b) The Village may conduct periodic inspection of telecommunication towers, at the owner's expense, to insure structural and electrical integrity and compliance with the provisions of this Article. The owner of the telecommunication tower may be required by the Village to have more frequent inspections should there be an emergency, extraordinary conditions or other reason to believe that the structural and electrical integrity of the tower is jeopardized. There shall be a maximum of one inspection per year unless emergency or extraordinary conditions warrant.

11.4.21 Reservation of Authority

The Village reserves the right to impose any additional restrictions, conditions, and limitations that are reasonable and appropriate in regard to the approval of any tower or antenna application that are consistent with existing and applicable rules, regulations, statutes and opinions of qualified telecommunication experts.

11.5 - APPLICATION FOR USAGE

In addition to complying with all the conditions and requirements and supplying all the information and documentation required in Section 10.4 of the Article, each applicant for the construction on any wireless telecommunications tower or antenna shall file an application in a form provided by the Village Building Department, accompanied by a filing fee in the amount of Two Thousand Five Hundred Dollars (\$2,500), to pay for the Village's costs incurred in processing and reviewing the application, which shall include and require:

- (1) A full and complete review of the application and all other required information and documentation by all appropriate Village departments under the coordination of the Village Building Department.
- (2) An engineering review of the proposed plan, drawn to scale, or each proposed usage site which identifies proposed landscaping and includes elevation drawings of the antenna tower and any appurtenant facilities.
- (3) The applicant to provide evidence of the status of title for the proposed antenna tower site, in a form required by the Village Attorney's office, to assure the Village that all necessary owners, easement holders, tenants, and other interested parties have consented to the application.
- (4) The applicant to certify that the tower or antenna proposed will be kept in continual compliance with all present and future promulgated safety laws, rules and regulations concerning electromagnetic frequency emissions standards, or similar safety standards for other communication media transmissions, and shall acknowledge the Village's ability to require immediate removal of any antenna which does not meet such safety rules and regulations. This enforceable certification shall be in form approved by the Village Attorney's office and shall be binding on the applicant's successors in interest. The certification shall enable the Village to recover its costs and attorney's fees if litigation is necessary to enforce the certification.
- (5) The applicant to further certify that any antenna(s) proposed for any tower or other location site will not interfere with public safety communications, and further, will not unreasonably interfere with the reception or transmission of television, radio, microwave, telephone, digital, or similar communication signals or receipt of signals of nearby residential or business residents. The Village may, as a condition for approval, require frequency relocation agreements as a condition of approval of the application.
- (6) The applicant to state in its application that it will, as a condition of issuance of the permit, accommodate antenna facilities of other providers, on a non-discriminatory basis, to avoid duplication of the erection of such antennas throughout the Village, or if not, the reasons, based upon verifiable objective data, why it cannot do so. Unreasonable refusal to permit co-use shall constitute a violation of the Code and may result in the Village revoking any previously granted antenna tower approval and seeking a mandatory injunction to compel the antenna tower's removal in addition to other remedies for code violations.

11.6 - APPLICATION REVIEW PROCEDURES

Following the administrative review of a pending application and all other information and documentation required by this Article by all Village departments, which is intended to be conducted within a reasonable period of time, the Village Building Department shall request that the application be placed on the next regular agenda of the Village Planning and Zoning Board for review and approval. After being reviewed by the Planning and Zoning Board, regardless of the Board's decision on the pending application, the Village Council shall then review the application and its supporting information and documentation, and the decision of the Planning and Zoning Board, at a public hearing to be noticed and advertised in the same manner as required for all public hearings of the Village. The decision of the Village Council at the scheduled public hearing shall constitute final Village action on the pending application.

11.7 - SITING PREFERENCES

- (1) The Village shall encourage the location of antenna tower sites on public property consistent with the intent of the congressional legislation on this subject. Accordingly, when evaluating an antenna tower application, the Village shall consider whether there is suitable public property near the proposed site which would physically accommodate the antenna tower without unreasonably compromising the antenna tower's signal reception or transmitting capability or unreasonably compromising the communication system's capability and without significantly increasing any negative antenna tower secondary effects such as aesthetics or the likelihood of property damage in the event of antenna tower failure.
- (2) If an antenna tower cannot be located on public property without unreasonably compromising the antenna tower's signal reception or transmission capability, or unreasonably compromising the communication system's capability, the Village will next consider sites in industrial zoned districts, sites in business or office zoned districts, or sites in community facility zoned districts which are not subject to government ownership or use.
- (3) In an antenna tower cannot be located on any of the secondary preference sites stated in subparagraph (2) above without unreasonably compromising the antenna tower's signal reception or transmission capability, or unreasonably compromising the communication system's capability, the Village will consider sites in the multi-family zoned districts of the Village for the antenna tower site.
- (4) In an antenna tower cannot be located on any of the secondary preference sites stated in subparagraphs (2) or (3) above without unreasonably compromising the antenna tower's signal reception or transmission capability, or unreasonably compromising the communication system's capability, the Village will consider sites in the single family zoned districts of the Village for the antenna tower site.
- (5) The Village shall also consider the following factors in regards to all siting preference evaluations:
 - (a) Availability of suitable existing towers, other structures, or state of the art technologies not requiring the use of towers or structures.
 - (b) Height of the proposed tower.
 - (c) The setback and separation distances between the proposed tower and the nearest residential units or residentially zoned properties.
 - (d) Proximity of the tower to residential structures and residential district boundaries.
 - (e) Nature of uses on adjacent and nearby properties.
 - (f) Surrounding topography.
 - (g) Surrounding tree coverage and foliage.
 - (h) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
 - (i) Proposed ingress and egress.

- (6) In addition, the Village may require opinions from suitable engineers or other professionals or experts when evaluation siting preferences and may defer considering applications for up to sixty (60) days to permit good faith negotiations to occur between an applicant and a property that is a preferred site class. Moreover, it will be presumed that if a proposed site is within one mile of an existing antenna tower that can reasonably accommodate the applicant's antenna, a denial of the application would not result in an unreasonable compromise to the applicant's communication system capability or an unreasonable compromise to the antenna tower's reception or transmission capability.

11.8 - PUBLIC PROPERTY SPECIAL CONDITIONS

The village reserves the right to modify or waive any of the requirements provided in this Article for the siting of wireless telecommunication towers and antennas on publicly owned property. However, any determination to modify or waive any Article requirements must be approved by the Village Council at the public hearing conducted to consider the application for the approval of the requested telecommunications facilities.

11.9 - BUILDINGS AND SUPPORT EQUIPMENT STANDARDS

11.9.1 Antennas Mounted on Structures or Rooftops

The equipment cabinet or structure used in association with these types of antennas shall comply with all of the following:

- (a) The cabinet or structure shall not contain more than four hundred fifty (450) square feet of gross floor area or be more than one hundred twenty (120) inches in height. In addition, for buildings and structures which are two (2) stories in height or less, the related unmanned equipment structure, if over one hundred (100) square feet of gross floor area or three (3) feet in height, shall be located on the ground and shall not be located on the roof of the structure unless the building or structure is completely screened.
- (b) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than five (5%) percent of the roof area.
- (c) Equipment buildings or cabinets shall comply with all applicable building codes, including minimum setback requirements provided herein.
- (d) Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the telecommunication tower, unless repairs to the tower are being made.
- (e) All buildings and equipment cabinets shall be unoccupied at all times.

11.9.2 Antennas Not Located on Telecommunication Towers; Mounted on Utility Poles or Light Poles

The equipment cabinet or structure used in association with these types of antennas shall be located in accordance with the following:

- (a) In residential districts, the equipment cabinet or structure may be located in a side yard setback provided the cabinet or structure is no greater than three (3) feet in height or sixteen (16) square feet of gross floor area and the cabinet/structure is located a minimum of five (5) feet from all lot lines. The cabinet/structure shall be screened by a hedge with a planted height of at least forty-eight (48) inches. Alternatively, in a rear yard setback, provided the cabinet or structure is no greater than five (5) feet in height or sixteen (16) square feet in gross floor area, the cabinet/structure shall be screened by a hedge with a planted height of seventy-two (72) inches.
- (b) In commercial or industrial districts the equipment cabinet or structure shall be no greater than five (5) feet in height or twenty-five (25) square feet in gross floor area. The structure or cabinet shall be screened by a hedge with a planted height of seventy-two (72) inches. In all other

instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid masonry fence six (6) feet in height or a hedge with a planted height of seventy two (72) inches.

11.9.3 Antennas Located on Towers

The related unmanned equipment structures shall not contain more than one thousand five hundred (1,500) square feet of gross floor area or be more than eight (8) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which it is located.

11.10 - REMOVAL OF ABANDONED ANTENNAS AND TOWERS

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the ninety (90) day period shall constitute grounds for the Village to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

11.11 - NONCONFORMING USES

- (1) Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Article, shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (2) Pre-existing Towers. Pre-existing towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers. New construction other than routine maintenance on pre-existing towers shall comply with the requirements of this Article.

11.12 - PROTECTION OF THE VILLAGE AND RESIDENTS

11.12.1 Indemnification

- (a) The Village shall not enter into any lease agreement until and unless the Village obtains an adequate indemnity therein. The indemnity must at least provide for the:
 - (i) Release of the Village from and against any and all liability and responsibility in or arising out of the construction, operation or repair of any communications facility. Each communications facility operator must further agree not to sue or seek any money or damages from the Village in connection with the above mentioned matters.
 - (ii) Indemnification and the holding harmless of the Village, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorney's fees, liabilities, damages, orders, judgments, or decrees sustained by the Village or any third party arising out of, or by reason of, or resulting from or of each communications facility operator, or its agents, employees, or servants negligent acts, errors or omissions.
 - (iii) Covenants and representations relating to all indemnifications provided herein shall survive the term of any agreement and continue in full force and effect as to the party's responsibility to indemnify.

11.12.2 Insurance

- (a) The Village may not enter into any lease agreement until and unless the Village obtains appropriate assurance that such telecommunications facility operator (and those acting on its behalf) have adequate insurance. At a minimum, the following requirements must be satisfied:

- (i) A telecommunications facility operator shall not commence construction or operation of any facility without obtaining all the insurance coverage that may be required, and the approval of such insurance by the Risk Management Department of the Village. Nor shall a communications facility operator allow any contractor or subcontractor to commence work on its contract or subcontract until all required insurance has been obtained and approved by the Village. The required insurance must be obtained and maintained for the entire period the communications facility is in existence. If the operator, its contractors or subcontractors do not have the required insurance, the Village may order such entities to cease operations until the required insurance is obtained and approved.
- (ii) Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the Village's Risk Management Department. All the certificates shall be filed prior to the commencement of construction and once a year thereafter, and as provided below, in the event of a lapse in coverage.
- (iii) These certificates shall contain a provision that the coverage afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been received by the Village. Policies shall be issued by companies authorized to do business under the laws of the State of Florida.
- (iv) In the event that the insurance certificate provided indicates that the insurance shall terminate or lapse during the period of the lease agreement with the Village, then in that event, the communications facility operator shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a new or renewed certificate of insurance as proof that equal and like coverage for the balance of the period has been secured.

11.12.3 Comprehensive General Liability

All communications facility operators and their contractors or subcontractors engaged in work on the operator's behalf, shall maintain appropriate insurance to cover liability for bodily injury and property damage, as shall be determined and required by the Village. Coverage shall be provided for the premises, operations and all contractual obligations. Coverage shall be written on an occurrence basis and shall be included in all lease agreements between the Village and all telecommunications facility operators.

11.13 - SECURITY FUND

Every telecommunication service provider, whether on public or private property, shall establish a cash security fund, or provide the Village with an irrevocable letter of credit in the same amount, to secure the payment of removing any antenna or tower that has been determined to be abandoned. The amount to be provided for each tower shall be Twenty-Five Thousand Dollars (\$25,000). In the alternative, in the Village's sole discretion, an operator may, in lieu of a cash security fund or letter of credit, file and maintain with the Village a bond with an acceptable surety in the amount of Twenty-Five Thousand Dollars (\$25,000). The operator and the surety shall be jointly and severally liable under the terms of the bond. Notwithstanding the foregoing, the security required by this section may be waived if sufficient security is otherwise provided in the lease between the provider and the Village.

APPENDIX A - FRANCHISES

The following is a list of the active franchises in the Village of Virginia Gardens which are on file in the village clerk's office.

Franchise	Ordinance Number	Ordinance Adoption Date
Southern Bell Telephone and Telegraph Company	Ord. No. 248	7-16-87

City Gas Company	Ord. No. 180	6-26-75
Coaxial Communication of Virginia Gardens, Inc.	Ord. No. 153	5-27-71
Florida Power & Light Company (FPL)	Ord. No. 353	1-19-2012

CODE COMPARATIVE TABLE 1967 CODE

This table gives the location within this Code of those sections of the 1967 Code, as updated through July 15, 1985, which are included herein. Sections of the 1967 Code, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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CODE COMPARATIVE TABLE ORDINANCES

This table gives the location within this Code of those ordinances adopted since the 1967 Code, as updated through July 15, 1985, which are included herein. Ordinances adopted prior to such date were incorporated into the 1967 Code, as supplemented. This table contains some ordinances which precede July 15, 1985, but which were never included in the 1967 Code, as supplemented, for various reasons. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

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STATE LAW REFERENCE TABLE

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This table shows the location of the sections of the basic Charter and any amendments thereto.

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This table shows the location of sections of any amendments to the basic Charter.

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