

Chapter 20 - HEALTH

Footnotes:

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State Law reference— Municipal Home Rule Powers Act, F.S. ch. 166; public health, F.S. chs. 381—409.

ARTICLE I. - IN GENERAL

Sec. 20-1. - State Sanitary Code adopted by reference.

There are hereby adopted by reference the rules of the Florida Department of Health as promulgated pursuant to F.S. § 381.0011. No person shall violate such rules.

(Code 1960, § 15-1; Code 1976, § 16-1)

Sec. 20-2. - Obnoxious and contaminating odors; control and prohibition.

- (a) *Control required.* When any business or occupation, conducted within the City, shall be of such a nature that smoke, gases, fumes, or any other obnoxious matter shall emanate therefrom, the person engaged in or conducting such business or occupation shall provide for the control, dissipation, and disposal of such obnoxious matter.
- (b) *Prohibited where not controlled.* In the event that such cannot be controlled so that it is not detrimental to the health and welfare of the inhabitants within the immediate vicinity of the place from which such emanates, then such business or occupation of any kind whatsoever shall be prohibited.

(Code 1960, § 15-8; Code 1976, § 16-8)

Secs. 20-3—20-20. - Reserved.

ARTICLE II. - MOSQUITO CONTROL

Footnotes:

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State Law reference— Mosquito control, F.S. ch. 388.

Sec. 20-21. - Breeding places for mosquitoes—Prohibited.

It shall be unlawful for any person to have, keep, maintain, cause, or permit any collection of standing or flowing water in which mosquitoes breed or are likely to breed, unless such collection of water is treated so as effectually to prevent such breeding.

(Code 1960, § 15-11; Code 1976, § 16-10)

Sec. 20-22. - Same—Enumerated.

Collections of water in which mosquitoes breed or are likely to breed are those contained in ditches, ponds, pools, excavations, holes, depressions, open cesspools, privy vaults, septic tanks, fountains, cisterns, tanks, shallow wells, barrels, troughs, urns, cans, boxes, bottles, tubs, buckets, defective house roof gutters, tanks or flush closets, or other similar water containers or depressions in lots where water is allowed to remain. The natural presence of mosquito larvae in standing or running water shall be evidence that mosquitoes are breeding there.

(Code 1960, § 15-12; Code 1976, § 16-11)

Sec. 20-23. - Same—Treatment of breeding places.

Collections of water in which mosquitoes breed or are likely to breed shall be treated by such of the following methods as shall be approved by the health officer:

- (1) Screening with wire netting of at least 16-mesh to the inch each way, or any other material which will effectually prevent the ingress or egress of mosquitoes.
- (2) Complete emptying every seven days of unscreened containers, together with their thorough drying or cleaning.
- (3) Using a larvicide approved and applied under the direction of the health officer.
- (4) Cleaning and keeping sufficiently free of vegetable growth and other obstructions, and stocking with mosquito destroying fish.
- (5) Filling or draining to the satisfaction of the health officer.
- (6) Proper disposal, by removal or destruction, of tin cans, tin boxes, broken or empty bottles, and similar articles likely to hold water.

(Code 1960, § 15-13; Code 1976, § 16-12)

Sec. 20-24. - Prohibited conditions on premises—Declared nuisance.

Any premises within the City which shall be maintained by the owner without complying with the provisions of this chapter, hereby are declared to be public nuisances; and it shall be the duty of the City to inspect the premises within the City, and whenever it shall find or locate premises, the owners of which are not complying with the provisions of this chapter, the City shall notify the owner to promptly place the premises in good condition, and to comply with the terms hereof.

(Code 1960, § 15-14; Code 1976, § 16-13)

Sec. 20-25. - Same—Failure to abate.

Whenever any owner of property within the City shall be notified by the City to place his premises in good and safe condition under the terms and provisions of this chapter, and such owner shall fail to do so within ten days after receipt of such notice, the City shall go upon the premises and place the same in good, safe condition, and to charge the cost thereof to the owner of the property, and the cost of placing the premises in good condition is hereby declared to be a lien upon the property enforceable by the same method and manner as the enforcement of tax liens of the City.

(Code 1960, § 15-15; Code 1976, § 16-14)

Sec. 20-26. - Same—Person responsible defined.

The person responsible for the condition of any premises is the person using or occupying such premises. In case no person is using or occupying the premises, the person who by law is entitled to the immediate possession of such premises is responsible. In case the premises are used or occupied by two or more tenants of a common landlord, or from grounds appurtenant to a house occupied by two or more tenants of a common landlord, then the landlord shall be responsible. Each tenant however, is responsible for that part of the premises which he occupies to the exclusion of the other tenants. In case the premises are occupied by a tenant under a yearly or monthly tenancy, or under a lease for not more than a year, or under any lease whereby the lessor is expressly or implicitly obligated to keep the premises in repair, and the collection of standing or flowing water in which mosquitoes breed or are likely to breed is owing to the disrepair of the building or to any natural quality of the premises, or to any condition that existed at the time when the tenant entered into possession, or to any thing done on the premises by the landlord during the existence of the tenancy or lease, then in such case, the landlord is the person responsible.

(Code 1960, § 15-16; Code 1976, § 16-15)

Chapter 22 - HUMAN RELATIONS

Footnotes:

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State Law reference— *Municipal Home Rule Powers Act, F.S. ch. 166; civil rights, F.S. chs. 760—765.*

ARTICLE I. - IN GENERAL

Secs. 22-1—22-18. - Reserved.

ARTICLE II. - FAIR HOUSING

Footnotes:

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State Law reference— Fair Housing Act, F.S. § 760.20 et seq.

Sec. 22-19. - 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:

Covered multifamily dwelling means:

- (1) A building which consists of four or more units and has an elevator; or
- (2) The ground floor units of a building which consists of four or more units and does not have an elevator.

Discriminatory housing practice means an act that is unlawful under section 22-22, 22-23 or 22-24.

Dwelling means any building, structure, or portion thereof which is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

Familial status is established when an individual who has not attained the age of 18 years is domiciled with:

- (1) A parent or other person having legal custody of such individual; or
- (2) A designee of a parent or other person having legal custody, with the written permission of such parent or other person.

Family includes a single individual.

Handicap means:

- (1) A person has a physical or mental impairment which substantially limits one or more major life activities, or he has a record of having, or is regarded as having, such physical or mental impairment; or
- (2) A person has a developmental disability.

To rent includes to lease, to sublease, to let, and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(Ord. No. O-85-3, § 2, 11-5-1984; Ord. No. O-90-32, § 1, 9-17-1990; Ord. No. O-93-6, § 2, 4-19-1993)

State Law reference— Similar provisions, F.S. § 760.22.

Sec. 22-20. - Declaration of policy.

It is hereby declared to be the policy of the City in the exercise of its police power for the public safety, public health, and general welfare, to assure equal opportunity to obtain adequate housing by all persons, regardless of race, color, religion, ancestry, sex, place of birth, handicap, familial status or national origin and to that end, to eliminate discrimination in housing.

(Ord. No. O-85-3, § 1, 11-5-1984; Ord. No. O-86-6, § 1, 11-18-1985; Ord. No. O-85-3, § 2, 9-17-1990; Ord. No. O-93-6, § 1, 4-19-1993)

Sec. 22-21. - Exemptions.

(a) Nothing in sections 22-22 and 22-23 applies to:

(1) Any single-family house sold or rented by its owner, provided such private individual owner does not own more than three single-family houses at any one time.

In the case of the sale of a single-family house by a private individual owner who does not reside in such house at the time of the sale or who was not the most recent resident of the house prior to the sale, the exemption granted by this subsection applies only with respect to one sale within any 24-month period. In addition, the bona fide private individual owner shall not own any interest in, nor shall there be owned or reserved on his behalf, under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three single-family houses at any one time. The sale or rental of any single-family house shall be excepted from the application of this article only if the house is sold or rented without:

- a. The use in any manner of the sales or rental facilities or the sales or rental services of any real estate licensee or such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such licensee or person; and
- b. The publication, posting, or mailing, after notice, of any advertisement or written notice in violation of section 22-22.

Nothing in this subsection prohibits the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as is necessary to perfect or transfer the title.

(2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(b) For the purposes of subsection (a) of this section, a person is deemed to be in the business of selling or renting dwellings if the person:

- (1) Has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or interest therein;
- (2) Has, within the preceding 12 months, participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or interest therein; or
- (3) Is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families.

- (c) Nothing in this article prohibits a religious organization, association, or society, or any nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental, or occupancy of any dwelling which it owns or operates for other than a commercial purpose to persons of the same religion or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nothing in this article prohibits a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.
- (d) Nothing in this article requires any person renting or selling a dwelling constructed for first occupancy before March 13, 1991, to modify, alter, or adjust the dwelling in order to provide physical accessibility except as otherwise required by law.
- (e) Any provision of this article regarding familial status does not apply with respect to housing for older persons. As used in this subsection, the term "housing for older persons" means housing:
 - (1) Provided under any State or Federal program that the State determines is specifically designed and operated to assist elderly persons, as defined in the State or Federal program;
 - (2) Intended for, and solely occupied by, persons 62 years of age or older; or
 - (3) Intended and operated for occupancy by persons 55 years of age or older that meets the following requirements:
 - a. At least 80 percent of the occupied units are occupied by at least one person 55 years of age or older.
 - b. The housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subsection. If the housing facility or community meets the requirements of subsections (e)(3)a and c of this section and the recorded governing documents provide for an adult, senior, or retirement housing facility or community and the governing documents lack an amendatory procedure, prohibit amendments, or restrict amendments until a specified future date, then that housing facility or community shall be deemed housing for older persons intended and operated for occupancy by persons 55 years of age or older. If those documents further provide a prohibition against residents 16 years of age or younger, that provision shall be construed, for purposes of the Fair Housing Act, to only apply to residents 18 years of age or younger, in order to conform with Federal law requirements. Governing documents which can be amended at a future date must be amended and properly recorded within one year after that date to reflect the requirements for consideration as housing for older persons, if that housing facility or community intends to continue as housing for older persons.
 - c. The housing facility or community complies with rules made by the Secretary of the United States Department of Housing and Urban Development pursuant to 24 CFR 100 for verification of occupancy, which rules provide for verification by reliable surveys and affidavits and include examples of the types of policies and procedures relevant to a determination of compliance with the requirements of subsection (e)(3)b of this section. Such surveys and affidavits are admissible in administrative and judicial proceedings for the purposes of such verification.
- (f) Housing shall not fail to be considered housing for older persons if:

- (1) A person who resides in such housing on or after October 1, 1989, does not meet the age requirements of this subsection, provided that any new occupant meets such age requirements; or
 - (2) One or more units are unoccupied, provided that any unoccupied units are reserved for occupancy by persons who meet the age requirements of this subsection.
- (g) A person shall not be personally liable for monetary damages for a violation of this subsection if such person reasonably relied in good faith on the application of the exemption under this subsection relating to housing for older persons. For purposes of this section, a person may show good faith reliance on the application of the exemption only by showing that:
- (1) The person has no actual knowledge that the facility or the community is ineligible, or will become ineligible, for such exemption; and
 - (2) The facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption.
- (h) A facility or community claiming an exemption under this subsection shall register with the State as required by law. Failure to comply with the requirements of this section shall not disqualify a facility or community that otherwise qualifies for the exemption provided in this subsection.
- (i) Nothing in this article:
- (1) Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, color, national origin, sex, handicap, familial status, or religion.
 - (2) Limits the applicability of any reasonable local restriction regarding the maximum number of occupants permitted to occupy a dwelling.
 - (3) Requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
 - (4) Prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined under F.S. ch. 893.

(Ord. No. O-85-3, § 3, 11-5-1984; Ord. No. O-93-6, § 3, 4-19-1993)

State Law reference— Similar provisions, F.S. § 760.29.

Sec. 22-22. - Discrimination in the sale or rental of housing.

- (a) As made applicable by section 22-21 and except as exempted by section 22-21(a) and section 22-25, it shall be unlawful to:
 - (1) Refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, handicap, or national origin.
 - (2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, handicap, or national origin.

- (3) Make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, familial status, handicap or national origin, or an intention to make any such preference, limitation, or discrimination.
 - (4) Represent to any person because of race, color, religion, sex, familial status, handicap, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.
 - (5) Induce or attempt to induce, for profit, any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, familial status, handicap, or national origin.
- (b) The protections afforded under this article against discrimination on the basis of familial status apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.
- (c) It is unlawful to discriminate in the sale or rental of, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of:
- (1) That buyer or renter;
 - (2) A person residing in or intending to reside in that dwelling after it is sold, rented or made available; or
 - (3) Any person associated with the buyer or renter.
- (d) It is unlawful to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of:
- (1) That buyer or renter;
 - (2) A person residing in or intending to reside in that dwelling after it is sold, rented, or made available; or
 - (3) Any person associated with the buyer or renter.
- (e) For purposes of subsections (c) and (d) of this section, discrimination includes a refusal:
- (1) To permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; or
 - (2) To make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.
- (f) Covered multifamily dwellings as defined herein which are intended for first occupancy after March 13, 1991, shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site as determined by State rule. Such buildings shall also be designed and constructed in such a manner that:
- (1) The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons.
 - (2) All doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by a person in a wheelchair.

- (3) All premises within such dwellings contain the following features of adaptive design:
 - a. An accessible route into and through the dwelling.
 - b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.
 - c. Reinforcements in bathroom walls to allow later installation of grab bars.
 - d. Usable kitchens and bathrooms such that a person in a wheelchair can maneuver about the space.
- (4) Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as ANSI A117.1-1986, suffices to satisfy the requirements of subsection (c) of this section.

(Ord. No. O-85-3, § 4, 11-5-1984; Ord. No. O-90-12, § 4, 9-17-1990; Ord. No. O-93-6, § 4, 4-19-1993)

State Law reference— Similar provisions, F.S. § 760.23.

Sec. 22-23. - Discrimination in the financing of housing.

- (a) It is unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm, or enterprise the business of which consists in whole or in part of the making of commercial real estate loans to deny a loan or other financial assistance to a person applying for the loan for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other term or condition of such loan or other financial assistance, because of the race, color, national origin, sex, handicap, familial status, or religion of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or because of the race, color, national origin, sex, handicap, familial status, or religion of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.
- (b) It is unlawful for any person or entity whose business includes engaging in residential real estate transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, national origin, sex, handicap, familial status, or religion. As used in this subsection, the term "residential real estate transaction" means any of the following:
 - (1) The making or purchasing of loans or providing other financial assistance:
 - a. For purchasing, constructing, improving, repairing, or maintaining a dwelling; or
 - b. Secured by residential real estate.
 - (2) The selling, brokering, or appraising of residential real property.

(Ord. No. O-85-3, § 5, 11-5-1984; Ord. No. O-90-12, § 5, 9-17-1990; Ord. No. O-93-6, § 5, 4-19-1993)

State Law reference— Similar provisions, F.S. § 760.25.

Sec. 22-24. - Discrimination in the provision of brokerage services.

It shall be unlawful to deny any person access or to membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms of conditions of such access, membership, or participation, on account of race, color, religion, sex, familial status, handicap, or national origin.

(Ord. No. O-85-3, § 6, 11-5-1984; Ord. No. O-90-12, § 6, 9-17-1990; Ord. No. O-93-6, § 6, 4-19-1993)

State Law reference— Similar provisions, F.S. § 760.24.

Sec. 22-25. - Administration.

- (a) The authority and responsibility for administering this article shall be with the City Commission.
- (b) The City Commission may delegate its functions, duties, and powers to an appointed agency, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this article.
- (c) The City Commission or its appointed agency shall:
 - (1) Implement the provisions of this article and rules and regulations promulgated hereunder and all City ordinances, codes, rules, and regulations pertaining to housing discrimination.
 - (2) Receive, initiate, and investigate any and all complaints alleging violations of this article, and take appropriate action to eliminate, conciliate, prevent, and/or initiate prosecution of any such violations.
 - (3) Provide assistance in all matters relating to equal housing opportunity.
 - (4) Publish and disseminate public information and educational materials relating to housing discrimination.
 - (5) Enter into written working agreements, as may be necessary to effectuate the purposes of this article, with Federal, State, and County agencies involved in reducing housing discrimination.
 - (6) Administer oaths and compel the attendance of witnesses and the production of evidence before it by subpoenas issued by the City Commission or its appointed agency.
 - (7) Take other informational, educational, or persuasive actions to implement the purposes of this article.

(Ord. No. O-85-3, § 7, 11-5-1984)

Sec. 22-26. - Procedure.

- (a) Any person aggrieved by an unlawful practice prohibited by this article must file a written complaint with the City Commission or its appointed agency within 45 days after the alleged unlawful practice occurs.
- (b) Upon receipt of a complaint, the City Commission or its appointed agency shall serve upon the individual charged with a violation (hereinafter referred to as the respondent), the complaint and a written resume setting forth the rights of the parties including, but not limited to, the right of the respondent to a hearing on the matter before adjudication by the City Commission or its appointed agency.
- (c) The City Commission or its appointed agency shall immediately investigate the complaint. Within 60 days from the date of the receipt of the complaint, the City Commission or its appointed agency shall establish written report with findings of fact.
- (d) Copies of the City Commission's or its appointed agency's report shall be sent to the complainant and the respondent. Either may, within ten days after such services, request a hearing before the City Commission or its appointed agency.
- (e) When the complainant or the respondent requests a hearing by the City Commission or its appointed agency, or when the City Commission or its appointed agency itself determines that a hearing is desirable, the City Commission or its appointed agency shall call and conduct such hearing in accordance with section 22-27.
- (f) The City Commission or its appointed agency shall carry into execution the actions specified in its report, or, if a hearing is held, shall carry into execution the actions determined upon by the City Commission or its appointed agency in the hearing.
- (g) The City Commission or its appointed agency in its review or its hearing may determine that:
 - (1) The complaint lacks grounds upon which to base action for violation of this article;
 - (2) The complaint has been adequately dealt with by conciliation of the parties; or
 - (3) The case warrants filing charges against the offending party in the appropriate court.In some cases both conciliation and adjudicative orders, or both adjudicative orders and initiation of court action may be indicated.

- (h) If the City Commission or its appointed agency issues an adjudicative order to correct, adjust, conciliate, prevent, or prohibit any unlawful act prohibited by this article, and the respondent refuses or fails to comply with or obey such adjudication, the City Commission or its appointed agency shall forthwith request that the State Attorney file a complaint in the appropriate court.
- (i) The City Commission or its appointed agency shall, at all times, provide the complainant with full and timely information as to all the alternatives available to him under local, State, and Federal law, including assistance to initiate judicial action if desired, under any circumstances.
- (j) The provisions of Rule 1.090, Florida Rules of Civil Procedure, shall govern the computation of any period of time prescribed by this article.
- (k) All papers or pleadings required by this article to be served may be served by certified mail or in accordance with the provisions of Rule 1.080(b), Florida Rules of Civil Procedure.

(Ord. No. O-85-3, § 8, 11-5-1984)

Sec. 22-27. - Hearings before the City Commission.

- (a) When a hearing is required before the City Commission or its, appointed agency, as specified in section 22-26(e), the City Commission or its appointed agency shall schedule the hearing and serve upon all interested parties a notice of time and place of the hearing. The hearing shall be held promptly, but not less than 15 days after service of such notice and of the City Commission's or its appointed agency's written report as set forth in section 22-26(d).
- (b) The parties, or their authorized counsel, may file such statements with the City Commission or its appointed agency, prior to the hearing date, as they deem necessary in support of their positions. The parties may appear before the City Commission or its appointed agency in person or by duly constituted representative and may have the assistance of attorneys. The parties may present testimony and evidence, and the right to cross examine witnesses shall be preserved. All testimony shall be given under oath or by affirmation. The City Commission or its appointed agency shall not be bound by strict rules of evidence prevailing in courts of law or equity but due process shall be observed. The City Commission or its appointed agency shall keep a full record of the hearing, which records shall be public and open to inspection by any person, and upon request by any principal party to the proceedings the City Commission or its appointed agency shall furnish such party a copy of the hearing record at cost. The constitutional rights of the respondent not to incriminate himself shall be scrupulously observed.
- (c) The City Commission or its appointed agency shall make a finding of fact, and a determination of action to be taken as set forth in section 22-26(g).
- (d) The City Commission or its appointed agency may issue subpoenas to compel access to or the production or appearance of premises, records, documents, individuals, or other evidence or possible sources of evidence relative to the complaint at issue.
- (e) Upon written application to the City Commission or its appointed agency, a respondent shall be entitled to the issuance of a reasonable number of subpoenas by and in the name of the City Commission or, to the same extent and subject to the same limitations as subpoenas issued by the City Commission or its appointed agency itself. Subpoenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.
- (f) Witnesses summoned by subpoena of the City Commission or its appointed agency shall be entitled to the same witness and mileage fees as are witnesses in proceedings in the State Courts of Florida. Fees payable to a witness summoned by a subpoena issued at the request of a respondent shall be paid by him, unless he is indigent in which case the City shall bear the cost of said fees.
- (g) Within ten days after service of a subpoena upon any person, such person may petition the City Commission or its appointed agency to revoke or modify the subpoena. The City Commission or its appointed agency shall grant the petition if it finds that the subpoena requires appearance or attendance, at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.
- (h) In case of refusal to obey a subpoena, the City Commission or its appointed agency or the person at whose request it was issued may petition for its enforcement in the appropriate court.

(Ord. No. O-85-3, § 9, 11-5-1984)

Sec. 22-28. - Other remedies.

Nothing herein shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled, or from filing of any complaint with any other agency or any court having proper jurisdiction.

(Ord. No. O-85-3, § 10, 11-5-1984)

Sec. 22-29. - Report to Real Estate Commission.

If a real estate broker, a real estate salesperson, or an employee thereof has been found to have committed an unlawful practice in violation of this article, or has failed to comply with an order issued by the City Commission or its appointed agency, the City Commission or its appointed agency shall, in addition to the other procedures set forth herein, report the facts to the Real Estate Commission of the State.

(Ord. No. O-85-3, § 11, 11-5-1984)

Chapter 24 - NUISANCES*Footnotes:*

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State Law reference— *Municipal Home Rule Powers Act, F.S. ch. 166; abatement of nuisances by injunction, F.S. § 60.05 et seq.; nuisances injurious to health, F.S. ch. 386; public nuisances generally, F.S. ch. 823.*

ARTICLE I. - IN GENERAL

Secs. 24-1—24-18. - Reserved.

ARTICLE II. - LOT CLEARING

Sec. 24-19. - Duty of property owners to keep lots clean.

It is declared to be the duty and responsibility of the owner of each and every lot, piece and parcel of land located within the City to keep each such lot, piece or parcel of land as lies within 500 feet of any residence, mercantile or other business building, church building or school building to keep the same reasonably free and clear of weeds, grass, garbage, waste and trash therefrom as often as may be reasonably necessary; provided, however, that the requirements of this section shall not apply to swamp and overflowed lands.

(Code 1960, § 14-6; Code 1976, § 15-14)

Chapter 26 - OFFENSES

Footnotes:

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State Law reference— *Municipal Home Rule Powers Act, F.S. ch. 166.*

Sec. 26-1. - State misdemeanors.

It shall be unlawful to commit, within the limits of the City, any act which is or shall be recognized by the laws of the State as a misdemeanor. The commission of any such act in the City shall be considered a violation of the laws of the City.

(Code 1960, § 12-36; Code 1976, § 19-36)

Sec. 26-2. - Removal of dead animal.

When any dead animal is found on private property, the owner of the dead animal or the owner of the premises upon which such animal is located shall, when notified, remove the same immediately at his own cost.

(Code 1960, § 5-7; Code 1976, § 5-14)

Sec. 26-3. - Birds—Killing, wounding or molesting prohibited.

It shall be unlawful for any person willfully to kill or wound, or attempt to kill, capture or molest, within the City limits, any mockingbird, redbird, thrush, wood pecker, or other nongame wild bird in the City.

(Code 1960, § 5-8; Code 1976, § 5-15; Ord. No. O-01-02, § 3, 11-20-2000)

Sec. 26-4. - Same—Robbing nests prohibited.

It shall be unlawful for any person to rob the nests of any bird by removing such nest, or the eggs therefrom, or taking out the young birds, or destroying the same.

(Code 1960, § 5-9; Code 1976, § 5-16)

Sec. 26-5. - Sales in streets and other public places.

It shall be unlawful for any auctioneer or other person to offer for sale, or sell at public auction or by public outcry, any goods, wares or merchandise or any livestock, or any other personal property, or any real estate or interest therein, upon any street or public place in the City, unless written permission has been obtained from the City so to do.

(Code 1960, § 6-5; Code 1976, § 6-5)

Sec. 26-6. - Unsightly or badly deteriorated boats prohibited.

No vessel or watercraft of any kind whatsoever which is of an unsightly appearance or in badly deteriorated condition, or which is likely to damage any docks, or which might become a menace to navigation shall be permitted to moor or tie up at said docks; such vessels or watercraft in such condition are hereby declared to be a public nuisance.

(Code 1960, § 9-14; Code 1976, § 9-14)

Sec. 26-7. - Throwing stones or missiles.

It shall be unlawful for any person to throw a stone or other missile or cause same by any means to fly through the air on any public street.

(Code 1960, § 12-2; Code 1976, § 19-2)

Chapter 28 - PARKS AND RECREATION***Footnotes:***

--- (1) ---

State Law reference—Municipal Home Rule Powers Act, F.S. ch. 166.

Sec. 28-1. - Bonfires.

It shall be unlawful for any person to build any fire in parks owned by the City, except at such places built thereon by the City for such purposes.

Sec. 28-2. - Dressing or undressing other than in dressing rooms.

It shall be unlawful for any person to dress or undress, or change to or from a bathing suit except in such dressing rooms as may be erected thereon for that purpose.

Sec. 28-3. - Trash and garbage.

It shall be unlawful for any person to throw, place, deposit, sweep, or scatter or cause to be thrown, placed, deposited, swept, or scattered, any paper, food, trash, fruit peeling, or other refuse in any park owned by the City.

State Law reference— Florida Litter Law, F.S. § 403.413.

Sec. 28-4. - Property and equipment—Use of.

It shall be unlawful for any person to use or occupy buildings, tables, chairs, or other property situated in or on property owned by the City, other than for the purposes for which the property was constructed and placed in, and intended to be used in the parks.

Sec. 28-5. - Same—Injuring.

It shall be unlawful to injure or destroy any of the buildings, tables, chairs, or other property situated in or on the public parks.

Sec. 28-6. - Depositing cigarettes and other debris in public toilets.

It shall be unlawful for any person to throw, place, or deposit paper, cigarettes, cigars, or other substances of such nature, in the toilets and urinals situated in the buildings at public parks.

Sec. 28-7. - Dogs and pets.

It shall be unlawful to bring dogs, cats, animals or other pets into the parks owned by the city.

Sec. 28-8. - Schedule of fees.

(a) *Parks and recreation use fees.* A schedule of fees for short term use of City facilities shall be established by resolution of the City of Alachua Commission.

(b)

The City Manager is authorized, directed and shall establish an application and other process necessary to properly administer a rental program. The City Manager or designee shall have the discretion and authority to waive any and all fees for any valid public purpose.

(c) The fees established and authorized by subsection (a) shall be amended from time to time. Amendment shall be by resolution of the City Commission.

(Ord. No. 09-28, §§ 2—4, 10-19-2009; Ord. No. 12-15, § 1, 2-27-2012)

Chapter 30 - SOLID WASTE

Footnotes:

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Editor's note— Ord. No. 16-17, § 1, adopted Sept. 26, 2016, amended and restated Ch. 30, §§ 30-1—30-40. Former Ch. 30 pertained to similar subject matter. See Code Comparative Table for historical derivations.

State Law reference— Florida Litter Law, F.S. § 403.413; resource recovery and management, F.S. § 403.702 et seq.; local government solid waste responsibilities, F.S. § 403.706.

ARTICLE I. - IN GENERAL

Sec. 30-1. - 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:

Agent means a representative of an owner who performs services for the owner with respect to the management or maintenance of real estate of the owner.

Bags means watertight plastic sacks designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed 35 pounds.

Bulky waste means stoves, refrigerators, water tanks, washing machines, furniture and other waste materials other than construction debris, dead animals or stable matter with weights or volumes greater than those allowed for containers.

Construction and demolition debris means discarded materials generally considered to be not water-soluble and non-hazardous in nature, including, but not limited to, steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber, from the construction or destruction of a structure as part of a construction or demolition project or from the renovation of a structure, and including rocks, soil, tree remains, trees, and other vegetative matter that normally results from land clearing or land development operations for a construction project, including such debris from construction of structures at a site remote from the construction or demolition project site. Mixing of construction and demolition debris with other types of solid waste will cause it to be classified as other than construction and demolition debris. The term also includes:

- (1) Clean cardboard, paper, plastic, wood, and metal scraps from a construction project.
- (2) Unpainted, non-treated wood scraps from facilities manufacturing materials used for construction of structures or their components and unpainted, non-treated wood pallets provided the wood scraps and pallets are separated from other solid waste where generated and the generator of such wood scraps or pallets implements reasonable practices of the generating industry to minimize the co-mingling of wood scraps or pallets with other solid waste.
- (3) De Minimis amounts of other non hazardous waste that are generated at construction or destruction projects, provided such amounts are consistent with best management practices of the industry.

Container means a receptacle with a capacity of greater than 20 gallons, but not more than 36 gallons, constructed of plastic, metal, or fiberglass, having handles of adequate strength for lifting and having a tight-fitting lid capable of preventing entrance into the container by vermin. The mouth of a container shall have a diameter greater than or equal to that of the base. The weight of the container and its contents shall not exceed 40 pounds. A receptacle provided for residents by the city, or its authorized garbage collection contractor, may exceed the less than 36-gallon limit. The city shall provide containers which may have a capacity of 96 gallons for garbage and trash and a separate container of up to 65 gallons for recyclable material collection.

Domestic animals shall include any equine or bovine animal, goat, sheep, swine, dog, cat poultry, or other domesticated beast or bird.

Enforcing official means the City Manager or designee.

Garbage means every accumulation of animal, fruit, or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruits or vegetables, and any other matter of any nature whatsoever, which is subject to decay and the generation of noxious or offensive gases or odors or which, during or after decay, may serve as breeding or feeding material for flies or other germ-carrying insects; and any bottles, cans or other containers, that, due to their faculty to retain water, may serve as breeding places for mosquitoes other water-breeding insects and germs.

Vegetative garden and or yard trash means all accumulations of grass, leaves, shrubbery, vines and trimmings.

Owner means any person who alone, jointly or severally with others, holds legal or equitable title to any real property.

Premises means a lot, plot or parcel of land including all buildings and improvements.

Refuse shall include and mean all garbage, vegetative garden and yard trash, bulky wastes and household trash.

Stable matter means all manure and other waste matter normally accumulated in or about a stable or any animal, livestock or poultry enclosure and resulting from the keeping of animals, poultry or livestock.

Trash means, unless specifically provided to the contrary, accumulations of paper, wooden or paper boxes or containers, sweepings and all other accumulations of a nature other than garbage, which are generated by usual housekeeping the operation of stores, offices and other activity.

(Ord. No. 16-17, § 1, 9-26-2016)

Sec. 30-2. - Prohibited acts.

- (a) It shall be unlawful for any person to deposit effluvia, refuse, byproducts of or decaying animal or vegetable matter, garbage or trash upon any premises of another, public or private, or in any waterway, pit or pool within the City.
- (b) No person shall burn trash, except garden or lawn trash, or garbage within the corporate limits of the City.
- (c) No garbage or trash shall be buried within the corporate limits of the City. This section does not pertain to composting; provided that such composting is conducted in a manner so as not to create a nuisance.
- (d) Stable matter shall not be placed in containers or otherwise set out for collection as residential solid waste. Stable matter shall be considered commercial solid waste or disposed of otherwise in a lawful manner.
- (e) No animal carcass shall be disposed of or deposited in a container or otherwise set out for collection by the City provided residential solid waste service,
- (f) No person, other than an authorized contractor or franchise holder, shall remove any solid waste or other materials from any recycling container belonging to another which has been set out for collection for the purpose of recycling.
- (g) No person shall place, or permit another to place, radioactive, volatile, highly flammable, explosive, toxic or hazardous material in any solid waste container or otherwise set out for residential collection or commercial collection "Hazardous Material" that includes, but is not limited to, any amount of waste listed or characterized as hazardous by the United States Environmental Protection Agency.

(Ord. No. 16-17, § 1, 9-26-2016)

Sec. 30-3. - Disposal of bodies of dead animals.

Any owner, custodian, or person in charge of a domestic animal, upon the death of such animals shall dispose of the carcasses of such animal by burying it at least two feet below the surface of the ground owned by such person; provided, however, nothing in this section shall prohibit the disposal of such animal carcasses to rendering companies or animal cremation services licensed to do business in this state.

(Ord. No. 16-17, § 1, 9-26-2016)

Sec. 30-4. - Reserved.**Sec. 30-5. - Reserved.****Sec. 30-6. - Reserved.****Sec. 30-7. - Reserved.**

Sec. 30-8. - Consent to inclusion in municipal service benefit unit for a non-ad-valorem special assessment for solid waste management.

- (a) *Consent.* Subject to the conditions provided in this section, the City Commission, as the City's governing body, consents to the inclusion of the City in the municipal service benefit unit for a non-ad-valorem special assessment for the provision of solid waste management as stated in County Resolution No. 11-141, adopted on December 13, 2011.
- (b) *Conditions.* This consent is granted subject to the following conditions:
 - (1) The total assessment in both the incorporated and unincorporated areas of the County does not exceed the maximum amount to be collected from the assessment which is printed on the first class notice distributed by the County, which amount shall provide for collection, disposal, recycling and management of solid waste for the community;
 - (2) All residences in the mandatory collection area of the unincorporated area and incorporated areas of the County are assessed equally;
 - (3) All nonresidential property in the unincorporated area and incorporated areas of the County are assessed an amount based on factors other than their location in an incorporated or unincorporated area; and
 - (4) That the benefit of the programs provided for by this assessment equals or exceeds the amount assessed. This consent does not apply to assessments for collection, disposal or recycling costs other than specifically provided herein.
- (c) *Term.* This consent is granted for the assessments to be billed in November of the year 2016 for services rendered from October 1, 2015, through September 30, 2016 and is given in advance for each fiscal year thereafter to serve as and authorize automatic renewal for each succeeding fiscal year unless such request and consent is subsequently withdrawn for any subsequent fiscal year by adopting an ordinance abandoning consent and providing a certified copy of such ordinance to the County prior to May 1 preceding the fiscal year for which consent is being withdrawn. Request and consent shall be irrevocable for any fiscal year in which the subject assessment is levied by the County within the incorporated area.

(Ord. No. 16-17, § 1, 9-26-2016)

Secs. 30-9—30-32. - Reserved.

ARTICLE II. - COLLECTION AND DISPOSAL

Sec. 30-33. - Residential service.

- (a) The owner of each residence in the City is required to use the solid waste collection service furnished by the City whether by means of City employees or through independent contractor(s) or franchise(es) and pay the rates and charges established for such services. All such persons shall comply with all requirements of the collector pertaining to garbage containers, placement and similar matters.
- (b) The City Commission here states, confirms and reaffirms the election to provide for the total collection and deposit of all residential refuse, yard trash, and recyclable materials in the City by exclusive contract with a qualified provider of such service.

(Ord. No. 16-17, § 1, 9-26-2016)

Sec. 30-34. - Service charges.

- (a) In order to cover the costs of inspecting, collecting, handling, hauling and deposit disposal of refuse and garbage, the following service charges shall be paid to the City by the owner or occupant of each single-family housing unit:
 - (1) Rates for each single-family residence and each living unit (one pickup per week) shall be as follows:
 - a. Within the City, \$25.60.
 - (2) Rates for special service, in addition to those provided for in subsection (a)(1) of this section, shall be charged at the actual cost for the services performed.
- (b) An annual residential refuse rate review shall be conducted during the first quarter of each calendar year, the findings of which shall be reported to the City Commission and used as a basis for any residential refuse rate adjustments.

(Ord. No. 16-17, § 1, 9-26-2016; Ord. No. 17-06, § 1, 12-12-2016; Ord. No. 22-23, § 1, 8-22-2022)

Sec. 30-35. - Use and placement of containers.

All residential garbage and trash shall be drained of free liquids stored as accumulated, in watertight bags and placed in covered containers. Such bags, contents, and container(s), except for those provided by City or its Contractor, shall not exceed 40 pounds. Containers of accumulated garbage and household trash shall be placed at the curb or roadside no earlier than 8:00 p.m. on the day preceding the scheduled collection day and, where non-disposable containers are used, the emptied containers shall be removed from the curbside location not later than 8:00 p.m. of the day of collection. The containers shall be removed and kept, except during the hours herein permitted for the placement of containers for collection, at a location screened by a building, solid fence constructed of wood, masonry, stone, non-reflective metal or similar materials, or opaque evergreen landscaping, to block view of containers from any contiguous property or any public street. It shall be unlawful and punishable as herein provided for any owner or occupant to place, permit the placing of or allow the location of garbage, household trash, or containers in any location or at any time not provided for in this section. Non-disposable or reusable containers intended not to be picked up by the collectors shall be clearly and appropriately identified.

(Ord. No. 16-17, § 1, 9-26-2016)

Sec. 30-36. - Billing.

The charges for refuse and garbage collection shall be billed by the City and paid monthly. Such charges are to be included on the regular monthly statements for water, wastewater and electric service, if applicable.

(Ord. No. 16-17, § 1, 9-26-2016)

Sec. 30-37. - Delinquent bills.

In the event a utility bill becomes delinquent, all utility services shall be discontinued, and such services shall not be restored until all required payments are made in full, plus applicable deposits and penalties as may be otherwise provided.

Secs. 30-38, 30-39. - Reserved.

Sec. 30-40 - Commercial service.

- (a) The owner of each commercial property in the City is required to use the solid waste collection service furnished by the City, whether by means of City employees or through independent contractor(s) or franchise(es), and pay the rates and charges established by the City if the service is provided by the City or independent contractor(s) or as negotiated and established between customer(s) and any holder of a nonexclusive franchise granted by City for the provision of containers for, or for the collection from commercial properties.
- (b) The City Commission, by Ordinance 04-15 adopted February 18, 2004, enacted a nonexclusive franchise system for both the provision of containers for and the collection from commercial properties of solid waste and recyclables. The nonexclusive franchise system was established and amended from time to time as set forth in Appendix A — Franchises, Article III, commercial Solid Waste, Division 1, and Division 2 of this Code.

(Ord. No. 16-17, § 1, 9-26-2016)

Chapter 32 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES*Footnotes:*

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State Law reference— *Municipal Home Rule Powers Act, F.S. ch. 166; City street system designated, F.S. § 334.03(3).*

ARTICLE I. - IN GENERAL

Sec. 32-1. - Obstructions and encroachments on public right-of-way and public places (permitting).

- (a) Definition of words and phrases in this section shall be, where specifically found, as set forth in part II, subpart B (Land Development Regulations, section 10.2) of this City of Alachua Code of Ordinances and Florida Statutes.
- (b) It shall be unlawful for any person except City employees or agents, to close, obstruct or encroach upon, under any pretense, any of the squares, streets, sidewalks or any other part of any City right-of-way or public place without first acquiring a permit from the City Manager or designee. Person, as used and referenced in this chapter, shall include but not be limited to, the owner of the property contiguous to the right-of-way at issue, the permittee, successors and assigns and, or, as the facts and circumstances determine, the party directly responsible for a violation of this chapter. Nothing in this section shall be construed as to prevent merchants and others in receiving and delivering their goods and wares in the usual manner and in the ordinary course of business for which a Local Business Tax Receipt has been issued for the location.
- (c) Subsection (a) of this section also applies, but is not limited to, items such as motor vehicles, trailers or equipment parked outside of designated parking areas, any structure as defined in F.S. § 380.031(19), landscaping, trees, gardens and other planting.

(Ord. No. 13-05, § 1, 2-11-2013)

Editor's note— Ordinance No. 13-05, § 1, adopted Feb. 11, 2013, amended § 32-1, in effect repealing and enacting a new § 32-1, as set out herein. The former § 32-1 pertained to obstructions and encroachments on public streets and derived from Code 1960, § 20-4 and Code 1976, § 22-4.

Sec. 32-2. - Damage to planting.

It shall be unlawful for any person to cut, destroy or injure any of the trees or other planting growing in or upon any of the public places or right-of-way of the City, provided, nothing herein contained shall be so construed as to prevent the City from maintaining or removing the same at its discretion.

(Ord. No. 13-05, § 1, 2-11-2013)

Editor's note— Ordinance No. 13-05, § 1, adopted Feb. 11, 2013, amended § 32-2, in effect repealing and enacting a new § 32-2, as set out herein. The former § 32-2 pertained to damage to trees and shrubs and derived from Code 1960, § 20-5 and Code 1976, § 22-5.

Sec. 32-3. - Duty of permittee and any successors or assigns to exercise due care in permitted use, to maintain and duty to indemnify City for any loss or damage.

- (a) Permittee shall exercise due care and strictly adhere to and meet the terms and conditions of any permit issued pursuant to this chapter by the City Manager or designee.

- (b) Any permitted alteration of City right-of-way such as a culvert or driveway, shall remain the property of the permittee and permittee and successors and assigns shall be responsible for continuing to maintain such facility in accordance with then existing City standards. The City shall have the right, but not the obligation, to perform required repair or maintenance of the permitted use (facility) and take such steps as are available to recover from permittee, successor or assign the cost of such maintenance or repair.
- (c) Permittee and successors and assigns shall agree to and be required to indemnify the City for any loss resulting from the permitted use.

(Ord. No. 13-05, § 1, 2-11-2013)

Editor's note— Ordinance No. 13-05, § 1, adopted Feb. 11, 2013, amended § 32-3, in effect repealing and enacting a new § 32-3, as set out herein. The former § 32-3 pertained to the duty of abutting property owner to mainain unpaved portion of right-of-way.

Sec. 32-4. - Permitted use is a license only and creates no vested right.

- (a) Any permit issued pursuant to this chapter is a license only and creates no vested right in permittee.
- (b) All use authorized by permit as described herein is subject to revocation by the City any time the City Manager or designee determines such revocation of such use is necessary in the public interest.

(Ord. No. 13-05, § 1, 2-11-2013)

Secs. 32-5—32-24. - Reserved.

ARTICLE II. - EXCAVATIONS

Sec. 32-25. - Procedure.

- (a) *Permit required.* It shall be unlawful for any person to do any construction or repair work involving the tearing up and relaying of any street, part of street, sidewalk or other part of any right-of-way or other public places to obstruct, dig up or into or in any way disturb any street, part of street, sidewalk or other part of any right-of-way or public places including, but not limited to, removal of earth from ditches, construction of utility infrastructure, construction of driveways or construction of drainage culverts in the City without first procuring from the City Manager or designee a written permit therefor. The permit herein provided shall be issued under such conditions as may be prescribed by the City Manager or designee and shall accurately describe the portion of the right-of-way or other public place to be affected and the nature of the work to be performed and shall make provision for the replacement of that part of the right-of-way or public places which is

disturbed by the work to the same condition as before disturbed and shall state a definite time within which the permit shall be operative. An application for the permit shall be obtained from the City Manager or designee. A fee of \$55.00 shall accompany each permit application. All communication service providers will be exempt from the aforementioned \$55.00 permit fee.

- (b) *Erection and lighting of barricades.* Any person carrying on or doing any construction, excavation or repair work in the City pursuant to a permit from the City Manager or designee as provided in subsection (a) of this section, shall erect and maintain proper, safe and sufficient barricades, and during that period of time between one-half hour after sunset and one-half hour before sunrise, shall maintain sufficient lights or flares around such barricades, work or excavations to warn persons of the presence of such excavations and work and to prevent injury to persons and property.
- (c) *Post work repair.* Upon the expiration of any permit granted pursuant to the provisions of subsection (a) of this section, the permit holder shall repair that area upon which such construction, excavation or repair work has been performed to the same condition as existed prior to the construction, excavation or repair work. Failure to do so shall constitute a second degree misdemeanor by the permit holder.

(Code 1960, §§ 20-1—20-3; Code 1976, §§ 22-1—22-3; Ord. No. 05-16, § 1, 7-5-2005; Ord. No. 07-19, § 1, 8-20-2007; Ord. No. 13-05, § 1, 2-11-2013)

Secs. 32-26—32-53. - Reserved.

ARTICLE III. - VISUAL OBSTRUCTIONS AT STREET CORNERS

Sec. 32-54. - Obstructions at street corners prohibited.

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

Street line means that line limiting the right-of-way of the street and being identical with the property line of persons owning property fronting on the streets.

- (b) It shall be unlawful for any person to construct, place or grow, or suffer to be constructed, placed or grown, any fence, wall structure, vegetation or obstruction of any kind which exceeds two feet in height measured from the crown of the adjacent street, on any property which is located at the corner of intersecting streets within the following:
 - (1) An area formed by a triangle, the apex of which is the point of intersection of the street lines, the legs of which extend 25 feet along said street lines and the hypotenuse of which connects the ends of the legs.
 - (2) In addition to the above, when the street line adjacent to the major road is ten feet or less from the curbline, edge of pavement or edge of the driving surface, an area formed by a triangle, the apex of which is the point of the intersection of the lines formed by the projection of either the curbline, edge of pavement, or the edge of the driving surface, the legs of which extend ten feet along the minor road and 100 feet along the major road, and the hypotenuse of which

connects the ends of the legs. For purposes of this section, the major road shall be the one which has the right-of-way under this Code of Ordinances or State law.

- (c) The terms of this section shall not apply to utility facilities or to vegetation, the branches of which are kept trimmed up to a height of eight feet above the highest crown of the intersecting streets unless same is deemed to be a traffic hazard after an appropriate engineering study or to those areas where zoning permits buildings and structures to encroach in the area set forth in subsection (b) of this section.

(Code 1976, § 22-7; Ord. No. O-76-1, § 1, 10-21-1975)

Chapter 34 - TAXATION

Footnotes:

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State Law reference— *Taxation generally, F.S. chs. 192—221.*

ARTICLE I. - IN GENERAL

Sec. 34-1. - Additional homestead exemption for certain senior citizens.

- (a) *Definitions.* The definitions in F.S. § 196.075 apply to this section.
- (b) *Additional exemption.* A homestead exemption from assessed valuation for City ad valorem tax levies in the amounts specified in subsection (d) of this section is hereby authorized. Those persons entitled to the homestead exemptions in F.S. § 196.031 and meeting the criteria for exemption listed in subsection (c) of this section may apply for and receive the additional homestead exemption as provided in this section. Receipt of the additional homestead exemption provided for by this section shall be subject to the provisions of F.S. §§ 196.131 and 196.161, if applicable.
- (c) *Criteria for exemption.* The homestead exemption authorized by this section is available to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age 65, and whose household income does not exceed \$20,000.00. Beginning January 1, 2001, the \$20,000.00 income limitation shall be adjusted annually on January 1, by the percentage change in the average cost-of-living index in the period of January 1 through December 31 of the immediate prior year compared with the same period of the year prior to that. The index is the average of the monthly consumer price index figures for the stated 12-month period, relative to the United States as a whole, issued by the United States Department of Labor. Any person claiming the homestead exemption authorized by this section must annually submit to the Property Appraiser, no later than March 1, a sworn statement of household income on a form prescribed by the Department of Revenue. Such statement must be supported by copies of any Federal tax returns for the prior year, any wage and earnings statements and any other documents required by the Department of Revenue, for each member of the household, to be submitted by June 1. The taxpayer's statement shall attest to the accuracy of such copies. The Property Appraiser may not grant the exemption without the required documentation.
- (d)

Amount of exemption. The homestead exemption authorized by this section shall be for assessed valuation as follows:

- (1) In the 2004 tax year, and each tax year thereafter, the exemption shall be \$25,000.00.

A person eligible for the homestead exemption authorized by this section shall be entitled to the full amount of the exemption as provided by this section. However, if the granting of the homestead exemption authorized by this section, when added to any other exemption from ad valorem assessment granted to a particular property, results in an exemption that exceeds the ad valorem assessment of the property, then the homestead exemption authorized by this section shall only be available to the extent that is equal to the difference between the ad valorem assessment of the property and any other exemption from ad valorem assessment granted to property.

(e) *Applicability of exemption.* The exemption granted by this section applies only to taxes by the City Commission.

(f) *Jointly held title.* If title is held jointly with right of survivorship, the person residing on the property and otherwise qualifying may receive the entire amount of the homestead authorized by this section.

(Ord. No. O-04-06, § 1, 11-17-2003)

Secs. 34-2—34-10. - Reserved.

ARTICLE II. - COMMUNICATIONS SERVICE TAX

Sec. 34-11. - Tax rate established.

- (a) The definitions in F.S. § 202.11 apply to this section.
- (b) The local Communication Services Tax rate shall be 5.22 percent. The local Communication Services Tax conversion rate established under F.S. § 202.20(1)(b), for the City is 3.80 percent, which is less than the highest rate of 5.10 percent. An additional 0.12 percent is added to 5.10 percent for municipalities which choose not to levy a permit fee to communication service providers, increasing the effective rate to a maximum allowable 5.22 percent.
- (c) The City elected not to require and collect permit fees from any provider of communication services that uses or occupies municipal's roads or right-of-way for the provision of communication services, as provided in F.S. § 337.401(3)(e) and (j). It is the intent of the City to increase its local communication services tax rate as provided in F.S. § 202.19 by an amount equal to 0.12 percent effective, January 1, 2008, to replace revenue the City would otherwise receive from permit fees as authorized by F.S. § 337.401(3)(c) and (j). In the aggregate, the new combined local communications services tax rate for the City will be 5.22 percent ($5.10\% + 0.12\% = 5.22\%$), effective January 1, 2008.

(Ord. No. 07-18, §§ 1, 2, 8-20-2007)

State Law reference— Communications service tax., F.S. §§ 202.19, 202.20.

Secs. 34-12—34-22. - Reserved.

ARTICLE III. - UTILITY TAX

Footnotes:

--- (2) ---

State Law reference— Utility tax, F.S. § 166.231 et seq.

Sec. 34-23. - Definitions.

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

Fuel oil.

- (1) The term "fuel oil" includes fuel oil grades Nos. 1, 2, 3, 4, 5 and 6, kerosene and coal oil.
- (2) The term "fuel oil," for the purpose of the tax imposed by this article, does not include the following:
 - a. Purchases of special fuels as defined in F.S. ch. 206;
 - b. The purchase of not more than five gallons of fuel oil delivered at the seller's place of business into the purchaser's container of not more than a five-gallon capacity;
 - c. The purchase of fuel oil for use in propulsion of ships, motor vessels, motorboats, aircraft, railroad trains, and other media of transportation; and
 - d. The purchase of fuel oil by a public or private utility, including municipal corporations and rural electric cooperative associations, either for resale or for use of fuel in the generation of electricity.

Purchaser includes any person, firm, corporation, partnership, society, club or association of persons acting together as a unit who purchase or cause to be purchased for consumption utility service within the corporate limits of the City.

Seller includes any person, firm, corporation, partnership, society, club or association of persons acting together as a unit who sell, furnish or deliver for sale utility service within the corporate limits of the City.

Utility service means electricity, metered or bottled gas (natural, liquefied petroleum gas, or manufactured), water service and fuel oil, sold, purchased, delivered or received within the boundaries of the City.

(Code 1976, § 23-16; Ord. No. O-77-17, § 1, 9-22-1977)

Sec. 34-24. - Levy of tax.

There is hereby levied by the City on each and every purchase in the City of electricity, metered or bottled gas (natural, liquefied petroleum gas, or manufactured), water service and fuel oil, a tax of ten percent of charge made by the seller of such service or commodity, which tax shall in each case be paid by the purchaser thereof for the use of said City to the seller of such electricity, metered or bottled gas (natural, liquefied petroleum gas, or manufactured), water service and fuel oil, at the time of paying the charge therefor, but not less than monthly. However, fuel oil shall be taxed at a rate not to exceed \$0.04 per gallon.

(Code 1976, § 23-17; Ord. No. O-77-17, § 1, 9-22-1977; Ord. No. O-88-10, § 1, 1-4-1988)

State Law reference— Tax authorized, F.S. § 166.231.

Sec. 34-25. - Fuel adjustment charges exempt from utilities tax.

All fuel adjustment charges which are added to electric utility billings are hereby exempt from the tax imposed by section 34-24. The term fuel adjustment means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.

(Code 1976, § 23-18; Ord. No. O-77-17, § 1, 9-22-1977)

State Law reference— Similar provisions, F.S. § 166.231.

Sec. 34-26. - Collection from purchaser.

It shall be the duty of every seller of electricity, metered or bottled gas (natural, liquefied petroleum gas, or manufactured), water service and fuel oil, within the corporate limits of the City to collect from the purchaser thereof for the use of the City, the tax hereby levied at the time of collecting the selling price thereof, and to report and pay over on or before the 20th day of each calendar month to the Finance Director, all such taxes levied and collected during the preceding calendar month. It shall be unlawful for any seller to collect for any utility service without at the same time collecting the tax hereby levied 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 for any such utility service where the seller has not elected to assume and pay such tax shall be liable to the City for the amount of such tax; provided, however, that the seller shall not be liable for the payment of such tax upon uncollected bills. If any purchaser shall fail, neglect or refuse to pay for such utility service, including the tax hereby imposed, the seller shall have the right and is hereby authorized and empowered to immediately discontinue further service to such purchaser until the tax and the seller's bill shall have been paid in full.

(Code 1976, § 23-19; Ord. No. O-77-17, § 1, 9-22-1977)

Sec. 34-27. - Records; monthly statements; payment to City.

Each seller shall keep complete records showing all sales in the City of such commodities or services, which records shall show the price charged upon each sale, the date thereof and the date of payment therefor and said records shall be kept open for inspection by the duly authorized agents of the City during business hours on all business days and said duly authorized agents of the City shall have the right, power and authority to make such transcripts thereof as required for the proper supervision and enforcement of the terms of this article. In addition to making such records available for inspection, every seller is hereby required to execute and file, no later than the 20th day of each month, in the office of the City Manager, a sworn statement on a form prescribed by the City Manager, setting forth the amount of such tax to which the City became entitled under the provisions of this article on account of bills paid by purchasers during the preceding month, and contemporaneously with the filing of said statement shall pay the amount of such tax to the Finance Director, as above provided, to be deposited to the credit of such funds of the City as may have been provided by the City Commission.

(Code 1976, § 23-20; Ord. No. O-77-17, § 1, 9-22-1977)

Sec. 34-28. - Monthly payments; forms; rules and regulations.

- (a) In all cases where the seller of utility service collects the price thereof at monthly periods the tax hereby levied may be computed on the aggregate amount of the sales during such period provided that the amount of tax to be collected shall be the nearest whole cent to the amount computed.
- (b) The City Manager shall prescribe, prepare and furnish forms for the reporting and return of the tax levied and collected under the terms of this article and sellers of utility service shall make all returns of the taxes collected by them on such forms. The City Manager is hereby further authorized to prescribe and promulgate necessary rules and regulations pertaining to the administration of the provisions of this article.

(Code 1976, § 23-21; Ord. No. O-77-17, § 1, 9-22-1977)

Sec. 34-29. - Additional exemptions.

The United States of America, the State and all political subdivisions, agencies, boards, commissions and instrumentalities thereof, and all recognized churches of the State are hereby exempt from the payment of the taxes imposed and levied by this article.

(Code 1976, § 23-22; Ord. No. O-77-17, § 1, 9-22-1977)

State Law reference— Similar provisions, F.S. § 166.231.

Sec. 34-30. - Violations; penalty.

Any purchaser willfully failing or refusing to pay the tax hereby imposed, where the seller has not elected to assume and pay such tax, and any seller violating any of the provisions or terms of this article or any officer, agent or employee of any seller who shall violate any of the terms or provisions of this article, shall, upon conviction thereof, be subject to the penalties provided by section 1-8.

(Code 1976, § 23-23; Ord. No. O-77-17, § 1, 9-22-1977)

Chapter 36 - TRAFFIC AND VEHICLES

Footnotes:

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State Law reference— Florida Uniform Traffic Control Law, F.S. ch. 316; powers of local authorities, F.S. §§ 316.002, 316.006, 316.075, 316.008.

ARTICLE I. - IN GENERAL

Sec. 36-1. - Definitions.

The definitions in F.S. § 316.003 apply to this chapter. For the purposes of this chapter the following words shall have the meanings indicated unless their context clearly requires otherwise:

Alley means a right-of-way, usually narrow, passing between the rear of buildings or lots.

(Code 1960, § 22-1(1—6); Code 1976, § 24-1)

Sec. 36-2. - Compliance with chapter.

It shall be unlawful for any person to do any act forbidden or fail to perform any act required in this chapter.

(Code 1960, § 22-3; Code 1976, § 24-3)

Sec. 36-3. - Applicability to animals and animal-drawn vehicles.

Every person driving an animal-drawn vehicle upon a roadway is subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions of this chapter which by their nature can have no application. The provisions of this chapter applicable to pedestrians apply to any person riding or leading an animal upon a roadway or the shoulder thereof.

(Code 1960, § 22-5; Code 1976, § 24-5)

Sec. 36-4. - Public employees to obey traffic regulations.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States Government, this State, County or City, and it shall be unlawful for any such driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter or by State Statutes.

(Code 1960, § 22-6; Code 1976, § 24-6)

Sec. 36-5. - Authorized emergency vehicles exemption from provisions of chapter.

(a) The following may exercise the privileges set forth in this section, but subject to the conditions herein stated:

- (1) The driver of an authorized emergency vehicle, when responding to an emergency call, when in the pursuit of an actual or suspected violator of the law, or when responding to a fire alarm, but not upon returning from a fire;
- (2) A medical staff physician or technician of a medical facility licensed by the State when responding to an emergency in the line of duty in his privately owned vehicle, using red lights as authorized in F.S. § 316.2398; or
- (3) The driver of an authorized law enforcement vehicle, when conducting a nonemergency escort, to warn the public of an approaching motorcade.

(b) The driver of a vehicle specified in subsection (a) of this section, except when otherwise directed by a police officer, may:

- (1) Park or stand, irrespective of the provisions of this chapter;
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (3) Exceed the maximum speed limits so long as the driver does not endanger life or property;
- (4) Disregard regulations governing direction or movement or turning in specified directions, so long as the driver does not endanger life or property.

(c) The provisions of this section shall not relieve the driver of a vehicle specified in subsection (a) of this section from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(Code 1960, § 22-44; Code 1976, § 24-49)

Sec. 36-6. - Boarding or alighting from vehicles.

No person shall board or alight from any vehicle while such vehicle is in motion.

(Code 1960, § 22-7; Code 1976, § 24-7)

Sec. 36-7. - Hitchhiking.

No person shall stand in a roadway for the purpose of soliciting a ride from the driver of any private vehicle nor for the purpose of selling any merchandise or agricultural products.

(Code 1960, § 22-9; Code 1976, § 24-9)

Sec. 36-8. - Duty to report accidents.

- (a) The driver of a vehicle involved in a crash resulting in injury to or death of any person or total property damage to an apparent extent of \$500.00 or more shall within ten days after such crash, forward a written report of such accident to the City Police Department.
- (b) The City Police Department may require any driver of a vehicle involved in a crash of which report must be made as provided in this section to file supplemental reports whenever the original report is insufficient in the opinion of said department, and may require witnesses of crashes to render reports to said department.

(Code 1960, § 22-91; Code 1976, § 24-149)

Secs. 36-9—36-34. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

Sec. 36-35. - Authority of Chief of Police relative to traffic.

The Chief of Police of the City, except as otherwise directed by this chapter and except as otherwise directed from time to time by the City Commission, shall have the power and is hereby authorized to enforce all rules and regulations governing traffic and the use of the streets of the City by vehicles and pedestrians.

(Code 1960, § 22-2; Code 1976, § 24-2)

Sec. 36-36. - Obedience to official traffic control devices.

No provision of this article for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by any ordinarily observant person.

(Code 1960, § 22-52; Code 1976, § 24-66)

Secs. 36-37—36-61. - Reserved.

ARTICLE III. - VEHICLE OPERATION

Sec. 36-62. - U-turns.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in the business district.

(Code 1960, § 22-17; Code 1976, § 24-22)

Sec. 36-63. - Backing.

The driver of a vehicle shall not back the same into an intersection or over a crosswalk.

(Code 1960, § 22-29; Code 1976, § 24-34)

Sec. 36-64. - Slow moving vehicles.

All vehicles moving slowly along the street shall keep as close as possible to the curbline so as to allow fast moving vehicles free passage on the lefthand side.

(Code 1960, § 22-30; Code 1976, § 24-35)

Secs. 36-65—36-86. - Reserved.

ARTICLE IV. - STOPPING, STANDING AND PARKING

Footnotes:

--- (2) ---

State Law reference— Authority to regulate stopping, standing or parking, F.S. § 316.008(1)(a); stopping, standing or parking, F.S. § 316.1945 et seq.

Sec. 36-87. - Standing or parking close to curb.

Regulations as to standing or parking close to curb are as follows:

- (1) Upon those streets which have been marked or signed for angle parking, vehicles shall be parked at the angle to the curb indicated by such mark or sign.
- (2)

In places where and at hours when stopping for the loading or unloading of merchandise or materials is permitted, vehicles used for the transportation of merchandise or materials may back into the curb to take on or discharge loads when the owner of such vehicle holds a permit granting him such privilege and such permit shall be either in the possession of the driver or on the vehicle at the time such vehicle is backed against the curb to take on or discharge a load and it shall be unlawful for any owner or driver to violate any of the special terms or conditions of any such special permit.

(Code 1960, § 22-61; Code 1976, § 24-86)

Sec. 36-88. - Unlawful parking.

No person shall stand or park a vehicle upon any roadway for the principal purpose of washing, greasing, or repairing the vehicle except repairs necessitated by an emergency.

(Code 1960, § 22-62; Code 1976, § 24-87)

Sec. 36-89. - Obstruction of free use of streets unlawful.

It shall be unlawful to park or stop any vehicle in such manner as to obstruct the free use of the streets by other vehicles or in such manner as to impede traffic on the streets.

(Code 1960, § 22-63; Code 1976, § 24-88(c))

Sec. 36-90. - All-night parking prohibited.

No person shall park a vehicle on any street or public right-of-way for a period of time longer than 30 minutes between the hours of 11:00 p.m. and 6:00 a.m., when signs are erected in each block giving notice thereof.

(Code 1960, § 22-64; Code 1976, § 24-89)

Sec. 36-91. - Near hazardous or congested places.

When signs are erected upon approach to hazardous or congested places no person shall stop, stand, or park a vehicle in any such designated place.

(Code 1960, § 22-65; Code 1976, § 24-90)

Sec. 36-92. - Standing for loading only.

- (a) No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger zone during the hours when the regulations applicable to such passenger zone are effective, and then only for a period not to exceed three minutes.
- (b) No person shall 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 as a loading zone during hours when the provisions applicable to loading zones are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

(Code 1960, § 22-66; Code 1976, § 24-91)

Sec. 36-93. - Allowance for free movement for vehicular traffic.

- (a) No person shall stop, stand, or park any vehicle upon a street, other than an alley in such manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals or a police officer.
- (b) No person shall park a vehicle within an alley for over 15 minutes unless there is left available no less than eight feet of the width of the roadway for the free movement of vehicular traffic.

(Code 1960, § 22-67; Code 1976, § 24-92)

Sec. 36-94. - Bus and taxicab stands.

- (a) The driver of a bus or taxicab shall not stand or park upon any street in any business district at any place other than a bus stop, or taxicab stand respectively, except that this provision shall not prevent the driver of any such vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers.
- (b) No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

(Code 1960, § 22-68; Code 1976, § 24-93)

Sec. 36-95. - Authority to impound illegally parked vehicles.

The Chief of Police or any police officer of the City is hereby authorized to take up or cause to be taken up or removed to a place designated by the City Manager or designee, any vehicle parked in violation of any of the provisions of this article and is authorized and empowered to keep same in such place so designated by the City Manager or designee until all fines and charges assessed for moving and storage against the owner and the car have been paid or satisfactory bond arranged.

(Code 1960, § 22-72; Code 1976, § 24-97)

Secs. 36-96—36-116. - Reserved.

ARTICLE V. - BICYCLES

Footnotes:

--- (3) ---

State Law reference— Authority to regulate bicycles, F.S. § 316.008(1)(h); bicycles, F.S. § 316.2065.

Sec. 36-117. - Effect of article.

- (a) It shall be unlawful for any person to do any act forbidden or fail to perform any act required in this article.
- (b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article.
- (c) These regulations applicable to bicycles shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

(Code 1960, § 8-2; Code 1976, § 8-2)

Sec. 36-118. - Speed.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Code 1960, § 8-6; Code 1976, § 8-6)

Sec. 36-119. - Emerging from alley or driveway.

The operator of a bicycle emerging from an alley, driveway or building, shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on such sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

(Code 1960, § 8-7; Code 1976, § 8-7)

Sec. 36-120. - Riding bicycles on sidewalks; right-of-way of pedestrians.

No person shall use any sidewalks in the business districts of the City for riding thereon with bicycles.

(Code 1960, § 8-10; Code 1976, § 8-10)

Sec. 36-121. - Sirens and whistles on bicycles.

It shall be unlawful for any person to operate any bicycle in the City that is equipped with any siren or whistle, nor shall any person in the City use such siren or whistle upon such bicycle, except for bicycles used for law enforcement purposes.

(Code 1960, § 8-12; Code 1976, § 8-12)

Chapter 38 - UTILITIES

Footnotes:

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State Law reference— Municipal Home Rule Powers Act, F.S. ch. 166.

ARTICLE I. - IN GENERAL

Sec. 38-1. - Private and public utility franchises, excluding electric.

- (a) No entity or person may sell or provide water, sewer, natural gas, or other utility services within the corporate limits of the City, as the same may be extended from time to time, without first obtaining a franchise agreement from the City. If granted, the franchise agreement shall contain, at a minimum, the term of the agreement, paid to the City, the specific utility services to be provided and the geographical areas to be served, and appropriate terms and conditions of service including provisions for the utilization of the City's rights-of-way and streets, and appropriate health and safety regulations.

- (b) Existing utility facilities and infrastructure situated within the corporate limits of the City may not be extended or modified without the approval of the City and not until such time as the owner or operator of any such utility facilities or infrastructure enters into a franchise agreement with the City.
- (c) Occupation of the City's streets and rights-of-way may be subject to the payment of rent. Occupation of the City's streets and rights-of-way by providers of utility services will be subject to the payment of rent in addition to any payments required pursuant to a franchise agreement. The rental fee for occupying the City's streets and rights-of-way will be determined by the City Commission on a case-by-case basis.

(Ord. No. O-93-9, §§ 1, 2, 8-16-1993; Ord. No. O-93-10, §§ 1—3, 10-4-1993)

Sec. 38-2. - Public and private electric utility franchises.

- (a) No entity or person may sell or provide electric utility services to any customer within the corporate limits of the City, as those corporate limits may be extended from time-to-time, without first obtaining a franchise from the City. Such franchise will permit the person or entity to sell or provide said electric utility services within designated geographical areas of the City's corporate limits and to designated service locations. If granted, the franchise agreement shall contain, at a minimum and at the discretion of the City, the term of the agreement, the franchise fee or other valuable consideration that is to be paid to the City, the specific electric utility services to be provided within the City limits, the geographical areas and service locations to be served, appropriate terms and conditions of service including provisions and conditions for the utilization of the City's streets and rights-of-way, and appropriate health and safety regulations. However, the terms of the franchise agreement shall not be construed to limit the City's ability to require permits for the construction or maintenance of said electric utility facilities. Any fees required by the City for such permits will be in addition to the franchise fee.
- (b) Existing electric utilities facilities and infrastructure situated within the corporate limits of the City may not be extended or modified without the approval of the City and not until such time as the owner or operator of any such electric utility facilities or infrastructure enters into a franchise agreement with the City.
- (c) Occupation of the City's streets and rights-of-way by providers of electric utilities services may be subject to the payment of rent in addition to any payments required pursuant to a franchise agreement. The rental fee for occupying the City's streets and rights-of-way will be determined by the City Commission on a case-by-case basis.

(Ord. No. O-97-27, §§ 1—3, 10-6-1997)

Sec. 38-3. - Mosquito control fee.

- (a) *Fee.* A fee of \$1.10 per month, (the "fee") shall be charged and collected for mosquito control from each consumer within the corporate limits of the City that receives:
 - (1) Residential, general service nondemand, general service demand, or large demand electric service from the City;
 - (2) General water service, but not electric service, from the City;
 - (3) Residential, commercial or special garbage and refuse disposal service, but not electric, water or wastewater service, from the City.

A consumer who receives general service demand or large demand electric service from the City through a master meter shall be charged the fee for each residential unit serviced by the master meter. Such fee shall not be charged on new billing until a certificate of occupancy has been issued.

(b) *Exemptions.* No fee or no additional fee shall be charged those consumers who maintain a separate electric meter for structures not designed for habitation such as, but not limited to, telephone booths, railroad crossing signals, signs or billboards, cable television poles, pumps or wells, or parking lot lights. The City Manager or his designee may also approve an exemption for similar nonhabitable structures.

(Ord. No. O-80-17, § 1(16-16), 9-5-1989; Ord. No. O-99-31, § 1, 10-4-1999; Ord. No. 12-26, § 1, 9-10-2012)

Secs. 38-4—38-24. - Reserved.

ARTICLE II. - GENERAL PROVISIONS RELATIVE TO CITY UTILITY SERVICE

DIVISION 1. - GENERALLY

Sec. 38-25. - Conditions for service in unincorporated areas.

It is recognized that the issuance of building permits within the unincorporated areas of the County are within the jurisdiction of the County. The City Manager, in cooperation with the County, will follow such ordinances or procedures that are adopted and effective within the unincorporated areas of the County, consistent with the intent of this article, to make sure that proper fees and charges are made and collected prior to the rendering of water, wastewater, refuse, and electric services.

(Code 1976, §§ 26-35, 26-62; Ord. No. O-76-3, § 20, 11-18-1975; Ord. No. O-76-6, § 17, 1-8-1976; Ord. No. O-81-14, § 20, 6-15-1981; Ord. No. O-81-15, § 17, 6-15-1981; Ord. No. O-83-4, § 17, 12-20-1982)

Sec. 38-26. - Application for service.

It shall be unlawful for any person to use City water, wastewater and electric services without first making written application to the City for such service not less than one business day before the service is desired and paying all charges incident to such applications. Such applications shall be made on forms furnished by the City and shall constitute an agreement by the consumer with the City to abide by the rules of the City in regard to its water, wastewater, and electric services. Applications for service requested by firms, partnerships, associations and corporations shall be tendered only by their duly authorized agents and the official title of such parties shall be signed to the application.

(Code 1976, §§ 26-18, 26-48, 26-78; Ord. No. O-76-3, § 3, 11-18-1975; Ord. No. O-76-6, § 3, 1-8-1976; Ord. No. O-81-9, § 1(3), 3-26-1981; Ord. No. O-81-14, § 3, 6-15-1981; Ord. No. O-81-15, § 3, 6-15-1981; Ord. No. O-83-4, § 3, 12-20-1982; Ord. No. 83-5, § 1(3), 12-20-1982)

Sec. 38-27. - Determination of type of service to be rendered.

- (a) The City Manager or designee, shall have the authority to determine what type of service shall be rendered by the City to each consumer.
- (b) Semipermanent service shall be defined as an interim type of service between temporary construction service and permanent service. Semipermanent service shall be granted to new construction or renovation sites upon approval of such service by the Building Official. Such service shall be granted for a period not to exceed 45 days allowing the contractor time to complete construction and prepare for final inspection. Semipermanent service shall automatically terminate at the end of the 45-day period, unless an extension has been applied for by the contractor. Such extension may be granted by the City Manager or designee for an additional period of time mutually agreeable to both parties. The City Manager or designee shall withhold semipermanent service under any application, at any construction site, until such time as all prior indebtedness incurred either by the applicant or by the construction site is paid in full. Occupancy in any premises with semipermanent service is not permitted. Should this condition be determined to exist, all utility services shall be terminated immediately and will not be restored until such time as a final inspection is performed and a certificate of occupancy is issued by the Building Official.

(Code 1976, §§ 26-30, 26-81; Ord. No. O-76-3, § 15, 11-18-1975; Ord. No. O-81-9, § 1(6), 3-26-1981; Ord. No. O-81-14, § 15, 6-15-1981; Ord. No. 83-5, § 1(6), 12-20-1982)

Sec. 38-28. - Withholding service for prior indebtedness.

The City Manager or designee may withhold or discontinue water, wastewater, and electric services rendered under any application, as required by the immediately preceding section, made by any member, principal or agent of a family, household, organization or business unless all prior indebtedness due by such family, household, organization or business is paid in full.

(Code 1976, §§ 26-19, 26-49, 26-82; Ord. No. O-76-3, § 4, 11-18-1975; Ord. No. O-76-6, § 4, 1-8-1976; Ord. No. O-81-9, § 1(7), 3-26-1981; Ord. No. O-81-14, § 4, 6-15-1981; Ord. No. O-81-15, § 4, 6-15-1981; Ord. No. O-83-4, § 4, 12-20-1982; Ord. No. 83-5, § 1(7), 12-20-1982)

Sec. 38-29. - Inspection of premises; discontinuance of service.

- (a) No service shall be rendered by the City to any consumer at any premises until such time as the City's Building Official has approved such premises for services.
- (b) As a condition of receiving or continuing to receive water, wastewater and electric services from the City, the duly authorized representatives of the City shall be permitted at reasonable times to make necessary inspections of utilities facilities on private premises where such inspections are reasonably necessary to ensure the compliance with the ordinances of the City relating to such service. If after written notice delivered to the premises or mailed to the premises and to the owner,

if not owner occupied, stating a reasonable time in which such inspection is needed to be made, the reasons therefor, and the effect of failure to allow such inspection, if the City's duly authorized representative is then denied access to the premises for such inspection, the City may then discontinue all utilities services to such premises until such inspection is permitted.

(Code 1976, §§ 26-39, 26-66, 26-83; Ord. No. O-76-3, § 24, 11-18-1975; Ord. No. O-76-6, § 21, 1-8-1976; Ord. No. O-81-9, § 1(8), 3-26-1981; Ord. No. O-81-14, § 24, 6-15-1981; Ord. No. O-81-15, § 21, 6-15-1981; Ord. No. O-83-4, § 1, 12-20-1982; Ord. No. 83-5, § 1(8), 12-20-1982)

Sec. 38-30. - Initial service charge.

- (a) *Per meter charge.* A service charge of \$25.00 per meter shall be paid to the City before any water, wastewater, and electric services are installed or transferred.
- (b) *Reconnection charge.* In the event service is scheduled to be cut for nonpayment (whether or not the service was actually interrupted), a fee of \$25.00 per meter shall be paid to the City before any water, wastewater, and electric services are continued or reconnected if service was interrupted, provided, however, such reconnection is requested and made during other than normal working hours, such reconnection fee shall be \$50.00 per meter.

(Code 1976, §§ 26-25, 26-56, 26-80; Ord. No. O-76-3, § 10, 11-18-1975; Ord. No. O-76-6, § 11, 1-8-1976; Ord. No. O-81-9, § 1(5), 3-26-1981; Ord. No. O-81-14, § 10, 6-15-1981; Ord. No. O-81-15, § 11, 6-15-1981; Ord. No. O-83-4, § 11, 12-20-1982; Ord. No. 83-5, § 1(5), 12-20-1982; Ord. No. O-94-16, § II, 9-19-1994; Ord. No. O-94-17, § I, 9-19-1994; Ord. No. O-98-08, § 1, 12-1-1997; Ord. No. O-98-09, § 1, 12-1-1997; Ord. No. O-98-16, § 1, 2-17-1998)

Sec. 38-31. - Transfer of service.

Applications for transfer of service shall be made by the consumer to the City not less than one business day before such transfer is desired, and failure on the part of the consumer to make such application and to pay the service charge shall render the consumer liable for not less than the minimum monthly charge for such service.

(Code 1976, §§ 26-26, 26-57, 26-99; Ord. No. O-76-3, § 11, 11-18-1975; Ord. No. O-76-6, § 12, 1-8-1976; Ord. No. O-81-9, § 1(24), 3-26-1981; Ord. No. O-81-14, § 11, 6-15-1981; Ord. No. O-81-15, § 12, 6-15-1981; Ord. No. O-83-4, § 12, 12-20-1982; Ord. No. 83-5, § 1(24), 12-20-1982)

Sec. 38-32. - Consumers to grant easements, etc.; access to premises by City employees.

- (a) The consumer shall grant or cause to be granted to the City, without cost, all rights, easements, permits and privileges which are necessary for the rendering of service. The duly authorized employees of the City shall have access, at all reasonable hours, to the premises of the consumer for the purpose of reading meters, installing or removing any of its properties, or for any purpose incidental to the rendering of the service.
- (b) The City Manager shall have the right to discontinue service if the consumer fails to provide a reasonable and safe entrance to a metering point for the purpose of reading, inspection, maintenance and removal of meters. Before service is terminated a City representative shall deliver a written notice to the premises. The notice shall state the turnoff date which shall not be sooner than 30 days from the date of notice. A duplicate copy of the notice shall be sent by certified mail to the consumer the following day.

(Code 1976, § 26-100; Ord. No. O-81-9, § 1(25), 3-26-1981; Ord. No. 83-5, § 1(25), 12-20-1982; Ord. No. O-86-4, § 1, 11-18-1985)

Sec. 38-33. - Meters, pipes, and wiring, altering prohibited; discontinuation of service; billing estimated consumption.

- (a) Per F.S. § 812.14, it is unlawful for any person to meddle, modify, tamper with, alter or change the pipes and wires on any premises or to interfere in any way with a meter or meter connection. Should it appear that water and/or electricity has been stolen by altering the pipes and wires, reversing the meter or otherwise, the City Manager or designee shall have the right to discontinue the service until the defect is corrected and the service approved by the City Building Official. The consumer shall be charged with and billed for the stolen water and/or electricity on an estimated billing calculated by the City based on previous meter consumption. In addition a fee of \$50.00 per water meter and \$75.00 per electric meter shall be paid to the City plus the deposit shall be increased to three times the average bill for water and five times the average bill for electric or twice the normal deposit, whichever is larger, before any water and electric service is reconnected.
- (b) The existence of any altered connection, pipes, and wiring or meter alteration or any device whatsoever, which effects the diversion of water and/or electricity without the same being measured or registered by or on a meter installed for that purpose by the City shall be prima facie evidence of intent to violate, and of the violation of this section by the person using or receiving the direct benefits from the use of such water and/or electricity passing through such connection, pipe, wire, and device or altered meter, or being used without being measured or registered on a meter as aforesaid.

(Code 1976, §§ 26-37, 26-64, 26-95; Ord. No. O-76-3, § 22, 11-18-1975; Ord. No. O-76-6, § 19, 1-8-1976; Ord. No. O-81-9, § 1(20), 3-26-1981; Ord. No. O-81-14, § 22, 6-15-1981; Ord. No. O-81-15, § 19, 6-15-1981; Ord. No. 83-5, § 1(20), 12-20-1982; Ord. No. O-94-16, § III, 9-19-1994; Ord. No. O-94-17, § IV, 9-19-1994)

Sec. 38-34. - Liability of City; restricting use of water or electric.

- (a) The City shall not be liable for any damage resulting from the bursting of any main, service pipe or cock, from the shutting off of water or electric for repairs, extensions or connections or from the accidental failure of the water and wastewater supply from any cause whatsoever. In case of emergency, the City shall have the right to restrict the use of water in any reasonable manner for the protection of the City and its water supply.
- (b) The City shall not be liable for any damage resulting from the malfunction or failure to function of any part of the wastewater system from any cause whatsoever.
- (c) The City will, at all times, use reasonable diligence to provide continuous service and, having used due diligence, shall not be liable to the consumer for failure or interruption of service.
- (d) The consumer shall indemnify, hold harmless and defend the City from, and against, any and all liability or loss, in any manner, directly or indirectly growing out of the transmission and use of electrical energy by the consumer at, or on, the consumer's side of the point of delivery.

(Code 1976, §§ 26-38, 26-65, 26-102, 26-103; Ord. No. O-76-3, § 23, 11-18-1975; Ord. No. O-76-6, § 20, 1-8-1976; Ord. No. O-81-9, § 1(27, 28), 3-26-1981; Ord. No. O-81-14, § 23, 6-15-1981; Ord. No. O-81-15, § 20, 6-15-1981; Ord. No. O-83-4, § 201, 12-20-1982; Ord. No. 83-5, § 1(28), 12-20-1982)

Sec. 38-35. - Resale and redistribution of water and electricity prohibited.

Water service and electric energy received under general water service, residential electric service, general service demand, general service large demand, or general service nondemand electric services shall be used for the consumer's direct use only. No resale or redistribution of such water service and electric energy shall be permitted unless authorized by the City Manager or designee at the time of project inception and development in a site plan.

(Code 1976, § 26-84; Ord. No. O-81-9, § 1(9), 3-26-1981; Ord. No. 83-5, § 1(9), 12-20-1982)

Secs. 38-36—38-60. - Reserved.

DIVISION 2. - DEPOSITS, BILLS AND BILLING

Sec. 38-61. - Liability for service.

The liability of the consumer for service shall begin on the day the consumer is connected to the City's water main, wastewater line and electric service wires and shall continue thereafter unless disconnected for nonpayment or other cause until written notice is given the City by the consumer of his desire to terminate the service.

(Code 1976, §§ 26-27, 26-58, 26-98; Ord. No. O-76-3, § 12, 11-18-1975; Ord. No. O-76-6, § 13, 1-8-1976; Ord. No. O-81-9, § 1(23), 3-26-1981; Ord. No. O-81-14, § 12, 6-15-1981; Ord. No. O-81-15, § 13, 6-15-1981; Ord. No. O-83-4, § 13, 12-20-1982; Ord. No. 83-5, § 1(23), 12-20-1982)

Sec. 38-62. - Deposit required; amount; receipt; refund; disposition of unclaimed deposits.

- (a) No deposit will be accepted for permanent service on new construction until a building permit has been issued and a final inspection made of the premises by the Building Official resulting in the issuance of a certificate of occupancy.
- (b) Before rendering any residential water, wastewater, and electric services, the City shall require an adequate security deposit in the amount of \$40.00 for water, \$50.00 for wastewater and \$150.00 for electric service customers to secure the payment of bills. The City shall require a deposit for nonresidential customers based on an estimated combined utility bill for two and one-half times the average bill to secure the payment of bills. The City reserves the right to review existing deposits and payment status on any customer at any given time to ensure that an adequate security deposit is maintained with the City.

Any returning customer, who has an outstanding indebtedness with the City, will be required to provide a deposit that is twice the amount of deposit requirements in effect at the time of application for service.

Such deposits shall be held by the City until final settlement of the consumer's account, and upon final settlement of consumer's account which shall include payment of the final bill, any unused balance of the deposit will be refunded when such account is settled and closed. All deposits shall be evidenced by nontransferable receipts issued by the City in the name of the prospective consumer applying for service, and refund shall be contingent upon adequate identification and surrender of the deposit receipt. In

the event any deposit is unclaimed for a period of 12 months after the service is discontinued such unclaimed deposit shall be considered abandoned property and shall be surrendered to the State.

The City will waive deposit requirements if the residential customer furnishes a letter of credit status from another electric utility company indicating a satisfactory credit rating and payment status for two consecutive years. A satisfactory credit rating shall be defined as no non-payment disconnects, no non-sufficient funds (nsf), no returned automated clearing house (ach) payments, and not more than one late notice within the two-year period. Such letter of credit status must be for the time period immediately preceding the request for connection with the City of Alachua. In the event an account no longer maintains a satisfactory credit rating, the residential customer will be required to pay the minimum deposit required for a residential account.

Upon submittal of the Good Credit Deposit Refund Request, the City will credit the deposit held for any residential customer who has for two consecutive years maintained a timely payment record. A timely payment record shall be defined to mean the payment of an outstanding utility bill on or before the due date, no non-payment disconnects, no non-sufficient funds, no returned automated clearing house (ach) payments, and not more than one late notice during the two-year period.

If the residential customer subsequent to receipt of the Good Credit Deposit Refund, fails to maintain a satisfactory credit rating, the residential customer will be required to provide a deposit based upon the City's deposit requirements at such time.

(Code 1976, §§ 26-31, 26-59, 26-79; Ord. No. O-76-3, § 16, 11-18-1975; Ord. No. O-76-6, § 14, 1-8-1976; Ord. No. O-81-9, § 1(4), 3-26-1981; Ord. No. O-81-14, § 16, 6-15-1981; Ord. No. O-81-15, § 14, 6-15-1981; Ord. No. 83-4 § 1(4), 12-20-1982; Ord. No. O-85-23, § 1, 9-5-1985; Ord. No. O-87-12, § 4, 8-3-1987; Ord. No. O-94-16, § I, 9-19-1994; Ord. No. O-94-17, § II, 9-19-1994; Ord. No. 94-18, § 1, 9-7-1994; Ord. No. 10-25, § 1, 10-11-2010)

Sec. 38-63. - Water, wastewater and electric service bills; rendering; date payable; delinquencies; combined monthly statements; discontinuation of service.

- (a) Bills for solid waste, mosquito control, water, wastewater, and electric service will be rendered monthly. The rendering of bills is not an obligation on the part of the City. A customer may elect to receive a monthly bill by e-mail, in lieu of the United States Postal Service. Failure of the consumer to receive such bills shall not release or diminish the obligation of the consumer for the payment thereof, or release the consumer from any obligation under this article. Such bills for service are due and payable when rendered following the last regular meter reading date, and shall become delinquent at the close of business seven days after the due date.
- (b) If the consolidated utility bill is not paid by the close of business on the due date after such bill is rendered, or the first business day after the due date if the City Hall is closed on the due date, there shall be imposed a ten percent late charge on such delinquent account. The late charge shall be assessed by computing ten percent of the delinquent user's consolidated utility systems service bill and adding the ten percent to the delinquent user's account. The City will mail a second notice to all utility customers after the late charge has been applied to the utility bill. The notice will state the amount due and the time and date of the disconnection.

The City may extend the date upon which a utility bill is due and payable. The terms for the extension shall be approved by the City Manager or designee. If the payment for which an extension has been granted is not received when due, then services will be disconnected and fees assessed in accordance with section 38-63.

(c) Combined monthly statements for all utilities services including electricity, water and wastewater plus applicable taxes shall be rendered to each user of such services. Water, wastewater and electric services are subject to disconnection on the day the account becomes delinquent, which is the close of business seven days after the due date after the utility bill has been rendered. Service shall remain disconnected until such delinquent account, plus the service charge is paid.

(d) In the event that a customer's service is scheduled for disconnection more than one time, such service will remain disconnected until the deposit on such customer's account equals twice the amount of original deposit or the amount of the customer's highest bill during the prior six months, whichever is greater.

(Code 1976, §§ 26-32, 26-60, 26-104; Ord. No. O-76-3, § 17, 11-18-1975; Ord. No. O-76-6, § 15, 1-8-1976; Ord. No. O-81-9, § 1(29), 3-26-1981; Ord. No. O-81-14, § 17, 6-15-1981; Ord. No. O-81-15, § 15, 6-15-1981; Ord. No. O-83-4, § 15, 12-20-1982; Ord. No. 83-5, § 1(29), 12-20-1982; Ord. No. O-83-10, §§ 2—4, 10-3-1983; Ord. No. O-87-12, §§ 1, 2, 4, 8-3-1987; Ord. No. O-94-17, § III, 9-19-1994; Ord. No. O-98-08, § 2, 12-1-1997; Ord. No. O-99-14, §§ 1—3, 3-15-1999; Ord. No. 10-25, § 1, 10-11-2010)

Sec. 38-64. - Estimate of bills when meter destroyed and fails to register.

In the event any meter on the consumer's premises is destroyed by fire or other cause or fails to register, the consumer will be billed for the period involved on the basis of previous consumption.

(Code 1976, §§ 26-29, 26-101; Ord. No. O-76-3, § 14, 11-18-1975; Ord. No. O-81-9, § 1(26), 3-26-1981; Ord. No. O-81-14, § 14, 6-15-1981; Ord. No. 83-5, § 1(27), 12-20-1982)

Sec. 38-65. - Returned check service charge.

A service charge in the maximum amount authorized by F.S. § 166.251 shall be made for each check to the City which is returned by a bank because of insufficient funds in the customer's account to cover the amount of such check.

If any check, draft or other order for payment is returned to the City as being dishonored, whether for insufficient funds in the account, or if the account is closed, or for other reason, the customer shall receive a 24-hour notice to compensate for said check, draft or other order for payment. If customer does not compensate for said check, draft or other order for payment, service shall immediately be discontinued until payment is made by cash, money order or cashier's check.

(Code 1976, §§ 26-33, 26-61; Ord. No. O-76-3, § 18, 11-18-1975; Ord. No. O-76-6, § 16, 1-8-1976; Ord. No. O-81-14, § 18, 6-15-1981; Ord. No. O-81-15, § 16, 6-15-1981; Ord. No. O-83-4, § 16, 12-20-1982; Ord. No. 10-25, § 1, 10-11-2010)

Sec. 38-66. - Excess returned checks.

- (a) This section shall apply to all billings for utility services rendered by the City.
- (b) The maximum allowable number of personal checks returned for insufficient funds is three checks. A record of all such dishonored checks shall be maintained by the City.
- (c)

Any customer accruing three dishonored personal checks for insufficient funds shall be required to pay subsequent utility bills by cash, money order or cashier's check. Any attempt to effect payment by personal check via night drop method of payment or U.S. Postal Service shall have utility services disconnected and charged a turnoff fee if made after cutoff date printed on utility bill. Service shall remain disconnected until payment is made as outlined in this subsection. When the utility bill has been paid, a cut-on fee shall also be charged.

- (d) Any utility customer who has been required to pay utility bills by cash, money order, or cashier's check, due to excess returned checks, will be permitted to pay by check once he has maintained a satisfactory credit rating as defined in section 38-62.

(Ord. No. O-92-24, §§ 1—3, 5-4-1992; Ord. No. 10-25, § 1, 10-11-2010)

Sec. 38-67. - Return of payments prohibited.

Except for deposits required for initial utilities service, no monies properly paid to the City under this article shall be refundable.

(Code 1976, §§ 26-36, 26-63, 26-105; Ord. No. O-76-3, § 21, 11-18-1975; Ord. No. O-76-6, § 18, 1-8-1976; Ord. No. O-81-9, § 1(30), 3-26-1981; Ord. No. O-81-14, § 21, 6-15-1981; Ord. No. O-81-15, § 18, 6-15-1981; Ord. No. 83-5, § 1(30), 12-20-1982)

Sec. 38-68. - Wastewater charge reductions.

The City may reduce the wastewater charges incurred by utility customers when it can be demonstrated that the facilities had leaks which have been resolved.

The City may reduce the wastewater charges incurred by utility customers as a result of filling a swimming pool.

(Ord. No. 10-25, § 2, 10-11-2010)

Sec. 38-69. - Alachua Cares program.

The City will implement a program entitled "Alachua Cares" by December 1, 2010, under guidelines approved by the City Commission which will allow utility customers to provide emergency financial assistance to residential utility customers. A social service agency will be selected by the City Commission to administer the program.

(Ord. No. 10-25, § 2, 10-11-2010)

Secs. 38-70—38-94. - Reserved.

ARTICLE III. - WATER SERVICE

Sec. 38-95. - 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:

Additional facilities or structures means any additional construction of buildings or real property appurtenances at a specific location that would create or tend to create additional demand for water service.

Apartment means one or more buildings constructed on a single parcel of land and being under common ownership or management where each building contains at least two living units. Laundry, recreational, cooking and other similar commonly used facilities that may be present are also included within the scope of this definition.

Applicant means the person, organization or corporation who signs an application form requesting water service be made available at a specific location and thereby agrees to pay for all such service used at that location. See *Customer*.

Approved mobile home park means a parcel of property properly zoned under the provisions of applicable City or County zoning regulations whose allowed and recognized use is the business of renting spaces or lots upon which mobile homes are placed and occupied as single-family dwellings and shall include any associated and allowed laundry, recreational and common facilities incidental thereto.

Consumer means the person who actually receives and utilizes water service at a specific location.

Customer means the person, organization or corporation responsible for payment for all water service used at a specific location, and further defined as that person, organization or corporation who signed the application requesting that water service be made available at the specific location and thereby agreeing to pay for all usage of such service occurring at said location.

Dwelling.

- (1) The term "dwelling" means a house, apartment or building used primarily for human habitation.
- (2) The term "dwelling" does not include hotels, motels, tourist courts or other accommodations for transients, nor does it include dormitories, fraternities, sororities or roominghouses.

General water service includes all water service except service to multifamily residential dwellings, hotels, motels, roominghouses, restaurants and campgrounds.

Hotel means a building designed to provide accommodations for transients or persons for short-time residence, with or without meals, providing for ten or more sleeping rooms, and including customary accessory uses in connection with the principal use.

Identifiable internal water service line means a water line, owned and installed by the customer on the customer's side of the City water meter, whose purpose is to provide water service to any additional facilities or structures.

Living unit means rooms comprising the essential elements of a single housekeeping unit. Facilities for the preparation or storage and keeping of food within the premises shall be construed as a living unit. Both facilities may not be private for the living unit, but shall be conveniently accessible to the living unit.

Mobile home means a movable living unit or similar portable structure having no foundation other than wheels, jacks, or blocks, sometimes referred to as trailers or trailer homes.

Motel includes the term motor hotel, tourist courts, and transient accommodations, primarily for those persons traveling by automotive vehicles and consisting of two or more units or buildings designed to provide sleeping accommodations, and with customary accessory uses.

Multifamily dwelling means a building in which two or more living units exist. Multifamily dwelling units shall be considered identically with apartments for the purposes of this article.

Residential means single-family or multifamily dwelling unit usage.

Rooming unit means rooms used as a place where sleeping or housekeeping accommodations are provided for pay to transient or permanent guests.

Roominghouse means a residential building used or intended to be used, as a place where sleeping or housekeeping accommodations are furnished or provided for pay to transient or permanent guests or tenants in which less than ten and more than three rooms are used for the accommodation of such guests or tenants, but which does not maintain a public dining room or cafe in the same building, nor in any building in connection therewith.

Single-family dwelling means a building containing a single living unit.

Special service categories includes multifamily residential dwellings, hotels, motels, roominghouses, restaurants and campgrounds.

Water capital facilities charge means a single charge, applied when the building permit is issued, designed to recover a portion of the difference between the new connection's pro rata share of capital facilities improvement and expansion and the anticipated periodic contributions to capital by the connection through the water rate schedule.

(Code 1976, § 26-17; Ord. No. O-76-3, § 2, 11-18-1975; Ord. No. O-81-14, § 2, 6-15-1981)

Sec. 38-96. - Legislative findings.

- (a) The revenues now derived from the water system of the City are not now adequate to meet existing expenses of the water system and the requirements of the consolidated electric, water and wastewater system.
- (b) It is the responsibility of the City to adopt an ordinance pertaining to rates and charges for water services which will provide adequate funds to maintain and perpetuate the water system and the consolidated electric, water and wastewater system, and to provide for an equitable distribution of costs among the users of such systems.
- (c)

The monthly rates for such service should be equitably established to recover the expense to the water system in providing water service or for making such service available.

- (d) A capital facilities charge should be fixed for the water system so as to distribute the cost burden of additional service as nearly as possible among those responsible for the additional burdens on the system. While all citizens of the community should share equally in the cost of maintaining a water distribution system which benefits the entire community, existing users of the water service should not bear the full burden of improvements and expansions of such systems necessitated by additional users of such water service. The capital facilities charge is designed to facilitate growth of the water system by providing for a portion of the cost of improvements and expansions to be distributed among the users who benefit especially from the expansions to the system necessitated by their additional use.
- (e) The imposition of a capital facilities charge is not a tax, but rather is a user charge or fee provided for in this article under the express power given the City under article VIII, section 2(b) of the 1968 Florida Constitution, as implemented F.S. ch. 166, and also under the authority of the City Charter. Likewise, the adoption of this entire article is pursuant to the authority given to the City under the general and special laws of the State and the grant of power from the people contained in the 1968 Florida Constitution.
- (f) The water system of the City has been operating at a deficit for several years. The rates and charges for water service must be raised to reflect the rapid inflation of operating expenses experienced in recent years and to reflect the debt service needs of the consolidated electric, water and wastewater system.
- (g) The water service charges adopted in this article are based on operating and maintenance expenses, capital facilities expansion costs and cost of debt service. Periodic review of the water service charges is necessary to ensure revenue adequacy.
- (h) The minimum monthly charges are designed to ensure that each user contributes his fair share of the operating, maintenance, and capital expense allowable to the water system's readiness-to-serve capability and his fair share of the debt service expense of the consolidated electric, water and wastewater system.

(Code 1976, § 26-16; Ord. No. O-76-3, § 1, 11-18-1975; Ord. No. O-81-14, § 1, 6-15-1981)

Sec. 38-97. - City employees to make connections on supply side of meters.

It shall be unlawful for any person to tap the City's water mains or make any other connection to pipes on the supply side of any meter except those persons duly employed or authorized by the City for such purposes.

(Code 1976, § 26-20; Ord. No. O-76-3, § 5, 11-18-1975; Ord. No. O-81-14, § 5, 6-15-1981)

Sec. 38-98. - Meters; City to furnish; customer responsibilities.

- (a) All necessary meters will be furnished by the City and shall remain the property of the City. A consumer desiring a meter larger than the size of the meter then in service will be required to pay the difference between the price of the meter then in service and the price of the larger meter.
- (b) An isolation valve when used herein means any fitting or valve used to allow or stop the flow of water from the City water main to the customer's service pipe.
- (c)

It shall be the customer's responsibility to properly protect the City's property on the customer's premises or easement. The customer shall prohibit access to such City property except access by utilities personnel or other persons authorized by law. When service lines, meters or other equipment are damaged by contractors, construction companies, governmental agencies or others, such damage will be repaired by the utility and the cost of repair shall be charged to the party causing such damage. In the event of any loss or damage to property of the City caused by or arising out of carelessness, neglect or misuse by the customer, the cost of replacing such property or repairing such damage shall be paid by the customer.

- (d) Except in emergencies, it shall be unlawful for any customer, or any person at customer's direction, to manipulate or tamper with an isolation valve without first notifying an employee from the City's Utility Department. The existence of any alteration or condition other than normal wear and tear to an isolation valve shall be prima facie proof of intent to violate this section and shall be punishable by the provisions of section 1-8.

(Code 1976, § 26-21; Ord. No. O-76-3, § 6, 11-18-1975; Ord. No. O-81-14, § 6, 6-15-1981; Ord. No. O-84-6, §§ 1(26-41), 2, 3, 4-16-1984)

Sec. 38-99. - Water meter installation charges.

- (a) Upon written application and payment to the City of the charges required herein, the City shall furnish all labor, material and equipment necessary, in accordance with the standard construction specifications of the City, to provide water service to the consumer's property line. Each applicant shall pay to the City, prior to the issuance of a building permit, a water meter installation charge based on the schedule in this subsection. The following schedule of rates will apply to all property within the corporate City limits:

WATER METER INSTALLATION CHARGES
(DOMESTIC AND IRRIGATION)

Meter Size (inches)	Water Meter Installation Charge
5/8 x 3/4	\$535.00
3/4	\$583.00
1	\$599.00
1-1½	\$690.00
2	Actual cost
3	Actual cost
(with backflow)	Actual cost
4	Actual cost
(with backflow)	Actual cost

(b)

The water meter installation charges to be billed and collected from consumers outside of the City's corporate limits shall be the same as set forth in subsection (a) of this section.

(Code 1976, § 26-22; Ord. No. O-76-3, § 7, 11-18-1975; Ord. No. O-81-14, § 7, 6-15-1981; Ord. No. O-94-4, § 1, 2-22-1994; Ord. No. O-98-07, § 1, 12-1-1997; Ord. No. O-02-11, § 1, 2-19-2002; Ord. No. O-05-08, § 1, 1-24-2005; Ord. No. 22-22, § 1, 8-22-2022; Ord. No. 23-05, § 1, 8-28-2023)

Sec. 38-100. - Extension of water lines.

Where existing water lines must be extended in order to provide water service to an applicant, such applicant for water service is responsible for the design, permitting and construction cost for the water line extension. The City reserves the right to approve the design. The City reserves the right to require oversized water lines for extensions. The City may pay the difference of the oversized water line material cost. Extended water lines will be turned over to the City for approval and acceptance. Water line extensions shall be installed in rights-of-way or the applicant shall provide the City with an easement across the private property in the form approved by the City.

(Code 1976, § 26-23; Ord. No. O-76-3, § 8, 11-18-1975; Ord. No. O-78-5, § 1, 5-1-1978; Ord. No. O-81-14, § 8, 6-15-1981; Ord. No. 15-12, § 3.A., 10-26-2015)

Sec. 38-101. - Water capital facilities charge.

(Domestic and Irrigation)

- (a) Each applicant for water service shall pay to the City a water capital facilities charge, where no water capital facilities charge has been previously paid, prior to conducting the final inspection. This charge is prescribed for various categories of consumers as follows: For residential and commercial consumers, the water capital facilities charge shall be based on the sizes and type of the water meters installed according to the schedule in this subsection. The following schedule of charges shall apply to all property within the corporate limits:

Water Meter		Water Capital Facilities Charge				
Size (inches)	Type	Maximum Continuous Flow Rate (gpm)	Equivalent Residential Connection (ERC)	Treatment Facilities	Distribution Facilities	Total

$\frac{5}{8} \times \frac{3}{4}$	Positive Displacement	10	1.0	\$1,846.00	\$556.00	\$2,402.00
1	Positive Displacement	25	<u>2.5</u>	4,617.00	1,386.00	6,003.00
1½	Positive Displacement	50	5.0	9,229.00	2,771.00	12,000.00
2	Positive Displacement	80	8.0	14,766.00	4,430.00	19,196.00
3	Compound	160	16.0	29,532.00	8,860.00	38,392.00
3	Turbine	350	35.0	64,601.00	19,383.00	83,984.00
4	Compound	250	25.0	46,144.00	13,846.00	59,990.00
4	Turbine	1,000	100.0	184,575.00	55,373.00	239,948.00
6	Compound	500	50.0	92,288.00	27,686.00	119,974.00
6	Turbine	2,000	200.0	369,150.00	110,745.00	479,895.00

Notes:

- (1) Water meter size and type shall be approved by the Public Services Director or designee.
 - (2) Maximum continuous flow rate is determined by American Water Works Association (AWWA) procedures for continuous testing of water meters.
 - (3) Consumers shall install a fire line meter or a double detector check meter device approved by the Public Services Director or designee for new fire service connections. Consumers shall install a fire line meter in applications where fire pumps are present and periodic testing is required. The customer shall bear the full cost of the fire line meter or the detector check meter. Fire line meters shall be testable and equipped with a bypass. Fire line meters and detector check meters are not subject to water capital facilities charges. Fire line meters and detector check meters are subject to monthly consumption charges (dollars per gallon of water consumed) at the prevailing rate for potable water. Fire line meters and detector check meters are subject to monthly consumer charges. Fire line meters and detector check meters shall not be charged wastewater consumption charges unless the fire line ultimately discharges to the wastewater system. When unauthorized water is used through a detector check meter in three or more billing periods in one calendar year, it shall be replaced with a fire line meter. The consumer shall bear the full cost of the meter replacement. Unauthorized use of water is defined as non-fire fighting water or water use without prior notification and approval of the City.
 - (4) Consumers shall install residential fire sprinkler connections on the customer side of the water meter where fire sprinkler systems are required. Fire sprinkler connections shall be installed in accordance with the Florida Building Code.
- (b) Consumers applying for five-eighths-inch by three-fourths-inch irrigation meters and who have paid a water capital facilities charge for a domestic water meter are not required to pay the water capital facilities charge.
 - (c) Consumers applying for irrigation meters larger than five-eighths inches by three-fourths-inches and who have paid a water capital facilities charge for a domestic water meter are required to pay the water capital facilities charge multiplied by 0.50.
 - (d) Consumers applying for water service at property located outside the City's corporate limits shall pay the applicable charge set forth in subsection (a) of this section multiplied times 1.25.
 - (e) Consumers that wish to increase the size of their water meter must pay the difference in water capital facilities charges between the meter size they currently use and the meter size they wish to upgrade to at the charge rates in existence at the time the consumer requests the water meter size increase.
 - (f) Consumers that wish to decrease the size of their water meter or discontinue use of their water meter are not entitled to a refund for the water capital facilities charge.

(Code 1976, § 26-24; Ord. No. O-76-3, § 9, 11-18-1975; Ord. No. O-81-14, § 9, 6-15-1981; Ord. No. O-84-11, § 1, 6-18-1984; Ord. No. O-90-25, § 1, 7-2-1990; Ord. No. O-94-3, § 1, 2-22-1994; Ord. No. O-98-06, § 1, 12-1-1997; Ord. No. O-02-12, § 1, 2-19-2002; Ord. No. O-05-08, § 2, 1-24-2005; Ord. No. 06-27, § 1, 8-7-2006; Ord. No. 12-09, § 2, 11-28-2011; Ord. No. 15-12, § 3.B., 10-26-2015; Ord. No. 22-22, § 1, 8-22-2022; Ord. No. 23-05, § 1, 8-28-2023)

Sec. 38-102. - Rates for consumption of water.

- (a) *Rates.* The rates to be assessed and collected from customers of water furnished as set forth below.

Water system consumption charges.

- (1) *Customer charge.* Each customer must pay a customer charge for each metered point of connection to the City's water system.

Customer charge	\$10.07 per month
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- (2) *Water availability charge.* Each customer must pay a water availability charge for each metered point of connection to the City's water system based upon water meter size associated with each connection point.

$\frac{5}{8}$ " x $\frac{3}{4}$ "	\$1.32 per month
1"	\$3.37 per month
1½"	\$7.60 per month
2"	\$13.47 per month
3"	\$29.18 per month
4"	\$53.84 per month
6"	\$121.21 per month
8"	\$215.49 per month

- (3) *Water consumption charge(s).* Each customer must pay for water consumed through each connection point based upon water service type.

Residential Service

Tier 1 (0—4,000 gallons)	\$2.40 per 1,000 gallons
Tier 2 (4,001—8,000 gallons)	\$3.12 per 1,000 gallons
Tier 3 (8,001 gallons and above)	\$4.67 per 1,000 gallons

Nonresidential Service (Commercial, Industrial and Fire Line Service)	
Tier 1 (All consumption)	\$3.12 per 1,000 gallons

Irrigation (Residential and Nonresidential Service)	
Tier 1 (All Consumption)	\$4.67 per 1,000 gallons

- (b) *Charges outside corporate limits.* The rates and the monthly charge to be assessed and collected by the City for water furnished by the City to consumers outside of its corporate limits shall be the same as the rates set in subsection (a) of this section, plus a surcharge equal to the amount of the City utility tax charged to consumers inside the City limits.
- (c) *Exemptions.* The following entities shall be exempt from paying the surcharge in subsection (b) of this section:
 - (1) The United States of America, the State of Florida and all political subdivisions, agencies, boards, commissions, and instrumentalities thereof are exempt from payment of the surcharge imposed and levied; and
 - (2) All properties of recognized churches in the State of Florida which lie outside the corporate limits of the City and are used exclusively for religious purposes are exempt from payment of any surcharge that may be made by the City on the sale of water to such properties.
- (d)

Price index adjustment. All rates for water service charged under subsection (a) of this section may be adjusted administratively by the City Manager on an annual basis in accordance with the Florida Public Service Commission's Annual Commission Approved Index order issued and published on an annual basis for water and wastewater utility service providers. Any price index adjustment in water rates must comply with the notice requirements of F.S. § 180.136. Any price index adjustment in water rates authorized by the City Manager shall supersede the rates set forth in subsection (a) of this section. The rate adjustment shall be applied as follows:

- (1) *Effective date of change.* The adjusted rates will be applied to all billings dated on or after October 1 of each year.
- (2) *Rate calculation.* The percentage change in the Annual Approved Index rate will be applied to the rates as follows:
 - a. Multiply the Florida Public Service Commission's published Annual Commission Approved Index for the year times the existing rate;
 - b. Add the product to the existing rate; and
 - c. Round the result to the nearest cent.

(Code 1976, §§ 26-28, 26-90; Ord. No. O-76-3, § 13, 11-18-1975; Ord. No. O-80-13, § 1, 2-18-1980; Ord. No. O-81-9, § 1(15), 3-26-1981; Ord. No. O-81-14, § 13, 6-15-1981; Ord. No. 83-5, § 1(4), 12-20-1982; Ord. No. O-84-22, § 1, 10-1-1984; Ord. No. O-90-23, § 1, 7-2-1990; Ord. No. O-94-12, § 1, 8-1-1994; Ord. No. O-05-08, § 3, 1-24-2005; Ord. No. 10-21, § 2, 8-23-2010; Ord. No. 12-28, § 1, 9-24-2012; Ord. No. 13-13, § 1, 9-23-2013; Ord. No. 14-10, § 1, 9-8-14; Ord. No. 15-09, § 1, 8-10-2015; Ord. No. 16-15, § 1, 8-8-2016; Ord. No. 17-12, § 1, 8-28-2017; Ord. No. 18-22, § 1, 8-27-2018; Ord. No. 19-33, § 1, 8-26-2019; Ord. No. 20-11, § 1, 8-24-2020; Ord. No. 21-11, § 1, 8-23-2021; Ord. No. 22-22, § 1, 8-22-2022; Ord. No. 23-05, § 1, 8-28-2023)

Sec. 38-103. - Water service bills; adjustments.

No allowance or adjustment of any water bill shall be made for leaks of any nature occurring on the consumer's side of the meter.

(Code 1976, § 26-34; Ord. No. O-76-3, § 19, 11-18-1975; Ord. No. O-81-14, § 19, 6-15-1981)

Secs. 38-104—38-134. - Reserved.

ARTICLE IV. - WASTEWATER SERVICE

Sec. 38-135. - 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:

Additional facilities or structures means any additional construction of buildings or real property appurtenances at a specific location that would create additional demand for water service and a concomitant increased demand for wastewater services.

Apartment means one or more buildings constructed on a single parcel of land and being under common ownership or management where each building contains at least two living units. Laundry, recreational, cooking and other similar commonly used facilities that may be present are also included within the scope of this definition.

Applicant means the person, organization or corporation who signs an application form requesting wastewater service be made available at a specific location and thereby agrees to pay for all such service used at that location. See *Customer*.

Approved mobile home park means a parcel of property properly zoned under the provisions of applicable City or County zoning regulations whose allowed and recognized use is the business of renting spaces or lots upon which mobile homes are placed and occupied as single-family dwellings and shall include any associated and allowed laundry, recreational and common facilities incidental thereto.

Building means any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, vehicles, goods, merchandise, equipment, materials or property of any kind. The term "building" includes tents, lunch wagons, dining cars, trailers, mobile homes, sheds, garages, carports, animal kennels, storerooms or vehicles serving in any way the function of a building as described herein.

Consumer means the persons who actually receive and utilize wastewater service at a specific location.

Customer means the person, organization or corporation responsible for payment for all wastewater service used at a specific location, and further defined as that person, organization or corporation who signed the application requesting that wastewater service be made available at the specific location and thereby agreeing to pay for all usage of such service occurring at said location.

Domestic effluent means ordinary, normal and usual sanitary sewage of the type discharged by domestic users and consisting of a strength which does not exceed domestic maxima as established in section 38-140(b)(6).

Dwelling.

- (1) The term "dwelling" means a house, apartment or building used primarily for human habitation.
- (2) The term "dwelling" does not include hotels, motels, tourist courts or other accommodations for transients, nor does it include dormitories, fraternities, sororities or roominghouses.

Excess strength wastes means liquid waste from manufacturing processes, trades, businesses, or practices which exceeds the strength designated as domestic maxima in section 38-140(b)(6).

Frontage means distance measured along an abutting public street right-of-way. In the event a parcel of property abuts a public street right-of-way on more than one side (corner lot) for the purposes of this article, the frontage is to be calculated by the following method: measuring the number of feet which abut public street rights-of-way and dividing such number of feet by two.

Hotel means a building designed to provide accommodations for transients or persons for short-time residence, with or without meals, providing for ten or more sleeping rooms, and including customary accessory uses in connection with the principal use.

Identifiable internal water service line means a water line, owned and installed by the customer on the customer's side of the City water meter, whose purpose is to provide water service to any additional facilities or structures.

Living unit means rooms comprising the essential elements of a single housekeeping unit. Facilities for the preparation or storage and keeping of food within the premises shall be construed as a living unit. Both facilities may not be private for the living unit but shall be conveniently accessible to the living unit.

Mobile home means a movable living unit or similar portable structure having no foundation other than wheels, jacks, or block, sometimes referred to as trailers or trailer homes.

Motel includes the terms "motor hotel," "tourist courts" and "transient accommodations," primarily for those persons traveling by automotive vehicles and consisting of two or more units or buildings designed to provide sleeping accommodations, and with customary accessory uses.

Multifamily dwellings means a building in which two or more living units exist. Multifamily dwelling units shall be considered identically with apartments for the purposes of this article.

Reclaimed water means domestic or municipal wastewater which has been treated to a quality suitable for beneficial use.

Residential means a general term referring to single-family or multifamily dwelling unit usage.

Rooming unit means a room used as a place where sleeping or housekeeping accommodations are provided for pay to transient or permanent guests.

Roominghouse means a residential building used or intended to be used, as a place where sleeping or housekeeping accommodations are furnished or provided for pay to transient or permanent guests or tenants in which less than ten and more than three rooms are used for the accommodation of such guests or tenants, but which does not maintain a public dining room or cafe in the same building, nor in any building in connection therewith.

Single-family dwelling means a building containing a single living unit.

Wastewater capital facilities charge means a single charge, applied when the building permit is issued, designed to recover a portion of the difference between the new connection's pro rata cost of capital facilities and the discounted value of future capital contributions through monthly charges for wastewater service. Where no wastewater capital facilities charge has previously been paid, such charge shall become due and payable at time of initial connection to the wastewater system.

(Code 1976, § 26-47; Ord. No. O-76-6, § 2, 1-8-1976; Ord. No. O-81-15, § 2, 6-15-1981; Ord. No. O-83-4, § 2, 12-20-1982; Ord. No. 13-10, § 1, 6-10-2013)

Sec. 38-136. - Legislative findings.

- (a) It is the responsibility of the City to adopt procedures and regulations relating to wastewater service in the interest of the public health, welfare and safety of the community.
- (b)

It is the responsibility of the City to adopt an ordinance pertaining to the rates and charges for wastewater service which will provide adequate funds to maintain and perpetuate the wastewater system and the consolidated electric, water and wastewater system, and to provide for an equitable distribution of costs among the users of such systems.

- (c) The monthly rates for such service should be equitably established to recover the expense to the wastewater system in providing wastewater service or for making such service available.
- (d) Wastewater capital facilities charges are designed to partially recover each customer's share of the capital cost of the wastewater collection system and to contribute toward the financing of the wastewater system.
- (e) A capital facilities charge should be fixed for the wastewater system so as to recover to the system a portion of the difference between the new connection's pro rata cost of capital facilities, and the discounted value of future capital contributions through monthly charges for wastewater service.
- (f) The imposition of a capital facilities charge is not a tax, but rather is a user charge or fee provided for in this article under the express power given the City under article VIII, section 2(b) of the 1968 Florida Constitution, as implemented under F.S. ch. 166 and also under the authority of the City Charter. Likewise, the adoption of the ordinance from which this article is derived is pursuant to the authority given to the City under the general and special laws of the State and the grant of power from the people contained in the 1968 Florida Constitution.
- (g) The wastewater charges adopted in this article are based on operating and maintenance expenses, capital facilities expansion costs and cost of debt service. Periodic review of the wastewater service charges is necessary to ensure revenue adequacy.
- (h) The minimum monthly charges are designed to ensure that each user contributes his fair share of the operating, maintenance, and capital expense allowable to the wastewater system's readiness-to-serve capability and his fair share of the debt service expense of the consolidated electric, water and wastewater system.

(Code 1976, § 26-46; Ord. No. O-76-6, § 1, 1-8-1976; Ord. No. O-81-15, § 1, 6-15-1981; Ord. No. O-83-4, § 1, 12-20-1982)

Sec. 38-137. - Sewer connection mandatory when building adjacent to sewer line.

No building permit for the construction of any building or structure located on property abutting any street, alley or right-of-way in which there is located a public sanitary sewer shall be issued unless all waste disposal from the sanitary facilities in said buildings or structures shall be directly connected with a public sanitary sewer; provided, however, that if a sanitary sewer is not available, then connection with public sanitary sewer shall occur at points and locations specified in the Comprehensive Plan, as amended.

(Code 1976, § 26-68; Ord. No. O-76-6, § 23, 1-8-1976; Ord. No. O-81-15, § 23, 6-15-1981; Ord. No. O-83-4, § 23, 12-20-1982)

Sec. 38-138. - Permits issued to licensed contractors only.

Permits for opening the City's wastewater lines or for making connection to any wastewater line will be issued to licensed contractors only.

(Code 1976, § 26-51; Ord. No. O-76-6, § 6, 1-8-1976; Ord. No. O-81-15, § 6, 6-15-1981; Ord. No. O-83-4, § 6, 12-20-1982)

Sec. 38-139. - Wastewater capital facilities charge.

- (a) Each applicant for wastewater service shall pay to the City a wastewater capital facilities charge, where no wastewater capital facilities charge has been previously paid, prior to conducting the final inspection. This charge is prescribed for various categories of consumers as follows: For residential and commercial consumers, the wastewater capital facilities charge shall be based on the sizes and type of the water meters installed according to the schedule in this subsection. The following schedule of charges shall apply to all property within the corporate limits:

Water Meter					Wastewater Capital Facilities Charge		
Size (inches)	Type	Maximum Continuous Flow Rate (gpm)	Equivalent Residential Connection (ERC)	Treatment Facilities	Collection Facilities	Total	
5/8 x 3/4	Positive Displacement	10	1.0	\$3,542.00	\$861.00	\$4,403.00	
1	Positive Displacement	25	2.5	8,860.00	2,156.00	11,016.00	
1½	Positive Displacement	50	5.0	17,719.00	4,307.00	22,026.00	

2	Positive Displacement	80	8.0	28,355.00	6,891.00	35,246.00
3	Compound	160	16.0	56,699.00	13,782.00	70,481.00
3	Turbine	350	35.0	124,034.00	30,147.00	154,182.00
4	Compound	250	25.0	88,596.00	21,534.00	110,130.00
4	Turbine	1,000	100.0	354,384.00	86,135.00	440,519.00
6	Compound	500	50.0	177,192.00	43,068.00	220,260.00
6	Turbine	2,000	200.0	708,768.00	172,270.00	881,038.00

Notes:

- (1) Water meter size and type to be determined by City Public Services staff.
- (2) Consumers applying for wastewater service at property located outside the City's corporate limits shall pay the applicable charge set forth in subsection (a) of this section multiplied times 1.25.
- (3) Consumers that wish to increase the size of their water meter must pay the difference in wastewater capital facilities charges between the meter size they currently use and the meter size they wish to upgrade to at the charge rates in existence at the time the consumer requests the water meter size increase.
- (4) Consumers that wish to decrease the size of their water meter or discontinue use of their water meter are not entitled to a refund for the wastewater capital facilities charge.

(Code 1976, § 26-54; Ord. No. O-76-6, § 9, 1-8-1976; Ord. No. O-81-15, § 9, 6-15-1981; Ord. No. O-83-4, § 9, 12-20-1982; Ord. No. O-84-12, 6-18-1984; Ord. No. O-90-26, § 1, 7-2-1990; Ord. No. O-94-5, § 1, 2-22-1994; Ord. No. O-98-05, § 1, 12-1-1997; Ord. No. O-5-09, § 1, 1-24-2005; Ord. No. 06-28, § 1, 8-7-2006; Ord. No. 12-10, § 2, 11-28-2011; Ord. No. 22-22, § 1, 8-22-2022; Ord. No. 23-05, § 1, 8-28-2023)

Sec. 38-140. - Wastewater rates and charges.

(a) *Rates.* There is hereby established a schedule of monthly rates and charges for the use of or availability for the use of wastewater collection, treatment and disposal service which in part is based on the amount of water used from the City water system as measured by the customer water meter. Wastewater service charges shall be billed to and be the responsibility of the customer responsible for paying the water bill at any specific location. These rates will apply to all locations within the corporate City limits.

Wastewater system usage charges.

(1) *Wastewater customer charge.* Each customer must pay a wastewater customer charge for each metered (water meter) point of connection to the City's water system.

Customer charge	\$12.47 per month
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(2) *Wastewater usage charge(s).* Each customer must pay for wastewater discharged into the City's wastewater collection system based upon customer class:

Residential customers	\$6.55 per 1,000 gallons
Nonresidential (commercial and industrial)	\$9.11 per 1,000 gallons

(b) *Charges outside the corporate limits.* The rates and monthly charges to be assessed and collected by the City for wastewater collection, treatment, and disposal services furnished by the City to consumers outside its corporate limits shall be the same as the rates set forth in subsection (a) of this section, plus a surcharge equal to the amount of the City utility tax charged to consumers inside the City limits. The following entities shall be exempt from paying the surcharge provided for in subsection (b) of this section:

- (1) The United States of America, the State and all political subdivisions, agencies, boards, commissions and instrumentalities thereof are exempt from the payment of the surcharge imposed and levied; and
- (2) All properties of recognized churches in the State of Florida which lie outside the corporate limits of the City and are used exclusively for religious purposes are exempt from payment of any surcharge that may be made by the City on the sale of wastewater service to such properties.

(c)

Price index adjustment. All rates for wastewater service charged under subsection (a) of this section may be adjusted administratively by the City Manager on an annual basis in accordance with the Florida Public Service Commission's Annual Commission Approved Index order issued and published on an annual basis for water and wastewater utility service providers. Any price index adjustment in water rates must comply with the notice requirements of F.S. § 180.136. Any price index adjustment in wastewater rates authorized by the City Manager shall supersede the rates set forth in subsection (a) of this section. The rate adjustment shall be applied as follows:

- (1) *Effective date of change.* The adjusted rates will be applied to all billings dated on or after October 1 of each year.
- (2) *Rate calculation.* The percentage change in the Annual Approved Index rate will be applied to the rates as follows:
 - a. Multiply the Florida Public Service Commission's published Annual Commission Approved Index for the year times the existing rate;
 - b. Add the product to the existing rate; and
 - c. Round the result to the nearest cent.
- (d) *Exemption.* Wastewater usage charges are not applied to consumers with water services for irrigation meters, fire line meters, or domestic water meters with water consumption which will not be discharged into the City's wastewater system.
- (e) *Standby monthly charges.* Water service customers not connected to the wastewater line within 90 days after the wastewater service availability date shall pay a standby charge equal to the wastewater charge which would be due if the customer were connected to the wastewater system.
- (f) *Separate meters authorized.* Where charges are based upon the amount of water purchased monthly from the City, the City Manager may approve separate meters to be installed at the expense of the customer to measure water not entering the City's wastewater system or to measure wastewater entering the wastewater system.
- (g) *Domestic effluent.* The charges in subsection (a) of this section apply to wastewater flows made up entirely of domestic effluent not exceeding the following listed characteristics under the heading of domestic maxima:

DOMESTIC MAXIMA

Concentration	Constituent mg/l
Total solids	500
Volatile	350
Fixed	150
Suspended solids	300

Volatile	250
Fixed	50
Dissolved solids	200
Volatile	100
Fixed	100
BOD (5-day, 20° C)	200
COD	300
TOC	150
Total nitrogen	50
Organic nitrogen	20
Free ammonia nitrogen	30
Nitrite (NO ₂) nitrogen	0.05
Nitrate (NO ₃) nitrogen	0.20
Chlorides	100
Alkalinity (as CaCO ₃)	100

- (h) *Excess strength wastes.* Where liquid waste is discharged from manufacturing processes, trades, businesses, or other practices, and the strength of such waste exceeds the characteristics of domestic effluent, a surcharge shall be levied reflecting the additional cost to the wastewater system of treating such excess strength wastes. The cost of such waste treatment shall be determined by the collection and analysis of samples and subsequent determination of the strength of the waste. The laboratory cost of collection and analysis of samples shall be borne by the customer.
- (i) *Septic tank and portable toilet waste.* Septic tank and portable toilet waste shall not be introduced into the City's wastewater system except when specifically authorized at the time, place and manner prescribed by the City. This sewage shall be metered and the charge therefor shall be \$12.00 per 100 gallons, due and payable immediately upon the acceptance of said waste by the City.
- (j) *General provisions.*
- (1) No stormwater drains, air conditioning waters, condenser waters, swimming pool waters, or other similar type shall be discharged into the wastewater system.
 - (2) Wastes containing oils and gasoline from service stations, garages and similar industries shall not be discharged into the wastewater system.
 - (3) Wastewater lines from restaurants or places where a large amount of cooking is done, or where the waste contains large amounts of grease, shall not be connected into the wastewater system without providing and maintaining an efficient grease trap as approved by the City Manager.
 - (4) It shall be unlawful to connect, alter, adjust, or operate on City's wastewater system without receiving prior authorization from City Manager or designee.
 - (5) It shall be unlawful to discharge any wastes directly into City's wastewater system via a manhole or any other entry point.
 - (6) The City Manager shall have the final decision as to whether any waste may be discharged into the wastewater system, however, this decision may be appealed before the City Commission.

(Code 1976, § 26-55; Ord. No. O-76-6, § 10, 1-8-1976; Ord. No. O-81-15, § 10, 6-15-1981; Ord. No. O-83-4, § 10, 12-20-1982; Ord. No. O-86-18, §§ 1, 2, 6-16-1986; Ord. No. O-90-24, § 1, 7-2-1990; Ord. No. O-90-27, § 1, 7-16-1990; Ord. No. O-94-13, § 1, 8-1-1994; Ord. No. O-94-14, § 1, 8-1-1994; Ord. No. O-00-04, § 1, 12-6-1999; Ord. No. O-05-09, § 2, 1-24-2005; Ord. No. O-05-10, § 1, 1-24-2005; Ord. No. 10-22, § 2, 8-23-2010; Ord. No. 12-29, § 1, 9-24-2012; Ord. No. 13-14, § 1, 9-23-2013; Ord. No. 14-10, § 1, 9-8-14; Ord. No. 15-09, § 1, 8-10-2015; Ord. No. 16-15, § 1, 8-8-2016; Ord. No. 17-12, § 1, 8-28-2017; Ord. No. 18-22, § 1, 8-27-2018; Ord. No. 19-33, § 1, 8-26-2019; Ord. No. 20-11, § 1, 8-24-2020; Ord. No. 21-11, § 1, 8-23-2021; Ord. No. 22-22, § 1, 8-22-2022; Ord. No. 23-05, § 1, 8-28-2023)

Sec. 38-141. - Reclaimed water rates and charges.

- (a) *Rates.* There is hereby established a schedule of monthly rates and charges for the use of or availability for the use of reclaimed water. These rates will apply to all locations within the corporate City limits.

Reclaimed water system usage charges.

- (1) *Reclaimed water customer charge.* Each customer must pay a reclaimed water customer charge for each metered point of connection to the City's reclaimed water system.

Customer charge	\$9.37 per month
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- (2) *Reclaimed water usage charge(s).* Each customer must pay for reclaimed water withdrawn from the City reclaimed water system.

Consumption charge	\$0.85 per 1,000 gallons
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- (b) *Charges outside the corporate limits.* The rates and monthly charges to be assessed and collected by the City for reclaimed water services furnished by the City to consumers outside its corporate limits shall be the same as the rates set forth in subsection (a) of this section, plus a surcharge equal to the amount of the City utility tax charged to consumers inside the City limits. The following entities shall be exempt from paying the surcharge:

- (1) The United States of America, the State and all political subdivisions, agencies, boards, commissions and instrumentalities thereof are exempt from the payment of the surcharge imposed and levied; and
- (2) All properties of recognized churches in the State of Florida which lie outside the corporate limits of the City and are used exclusively for religious purposes are exempt from payment of any surcharge that may be made by the City on the sale of reclaimed water service to such properties.

- (c) *Price index adjustment.* All rates for reclaimed water service charged under subsection (a) of this section may be adjusted administratively by the City Manager on an annual basis in accordance with the Florida Public Service Commission's Annual Commission Approved Index order issued and published on an annual basis for water and wastewater utility service providers. Any price index adjustment in reclaimed water rates must comply with the notice requirements of F.S. § 180.136. Any price index adjustment in reclaimed water rates authorized by the City Manager shall supersede the rates set forth in subsection (a) of this section. The rate adjustment shall be applied as follows:

- (1) *Effective date of change.* The adjusted rates will be applied to all billings dated on or after October 1 of each year.
- (2) *Rate calculation.* The percentage change in the Annual Approved Index rate will be applied to the rates as follows:
 - a. Multiply the Florida Public Service Commission's published Annual Commission Approved Index for the year times the existing rate;
 - b. Add the product to the existing rate; and
 - c. Round the result to the nearest cent.

(Ord. No. 13-10, § 1, 6-10-2013; Ord. No. 14-10, § 1, 9-8-14; Ord. No. 15-09, § 1, 8-10-2015; Ord. No. 16-15, § 1, 8-8-2016; Ord. No. 17-12, § 1, 8-28-2017; Ord. No. 18-22, § 1, 8-27-2018; Ord. No. 19-33, § 1, 8-26-2019; Ord. No. 20-11, § 1, 8-24-2020; Ord. No. 21-11, § 1, 8-23-2021; Ord. No. 22-22, § 1, 8-22-2022; Ord. No. 23-05, § 1, 8-28-2023)

Secs. 38-142—38-163. - Reserved.

ARTICLE V. - ELECTRIC SERVICE

Sec. 38-164. - 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:

AC power means electrical power of the type distributed by the electric utility distribution system and delivered for consumption to the customer's meter. AC power is created by systems that utilize time-varying electrical current ("alternating current").

Billing demand means the maximum 15-minute integrated demand.

Bulk power cost (BPC) means those costs incurred in providing electric energy for the retail customers of the City. Bulk power cost shall include the following:

- (1) Cost of power purchased for use in the City's electric system.
- (2) Cost of transmission services to deliver power to the City's electric system.
- (3) Cost of any equipment owned or leased by the City to generate power for the City's electric system.
- (4) Operation and maintenance costs including fuel of City owned or leased equipment used to generate power for the City's electric system.
- (5) Allocated cost of any capital projects that are projected to reduce the cost of bulk power to the City's electric system.

Bulk power cost shall be determined monthly.

Bulk power cost adjustment (BPCA) means the difference between the bulk power cost and the bulk power cost base, stated in cost per kilowatt-hour, as determined monthly.

Bulk power cost base (BPCB) means those power-related costs that are embedded within the base rate, stated in cost per kilowatt-hour.

Bulk power cost true-up (BPCT) means the difference between the bulk power cost actually incurred and the bulk power cost recovered through the bulk power cost base and the bulk power cost adjustment, as determined monthly.

Consumer means any person or entity that receives and utilizes electric service at a specific location.

Customer means the person or entity responsible for payment for all electric services used at a specific location, and further defined as that person who has applied for and requested that services be made available at the specific location and has agreed to pay for all usage of such services occurring at the location. The customer and the consumer may be one and the same.

Customer-owned renewable generation means an electric generating system located on a customer's premises that is primarily intended to offset part or all of the electricity requirements for the customer with renewable energy. The term "customer-owned renewable generation" does not preclude the customer of record from contracting for the purchase, lease, operation, or maintenance of an on-site renewable generation system with a third-party under terms and conditions that do not include the retail purchase of electricity from the third party.

DC power means electrical power of the type stored in batteries. DC power is generated by systems that utilize electrical current that does not vary over time ("direct current"). One important example of such a system is a photovoltaic solar array which converts sunlight into DC power. DC power must be converted to AC power before it can be distributed by the utility electrical distribution system.

Distributed generation means small, modular, decentralized, grid-connected or off-grid energy systems located in or near the place where energy is used. For purposes of net metering, the generation is connected to the customer's electric system on the customer's side of the electric revenue meter.

Excess customer-owned renewable generation means electric energy produced by the customer-owned renewable generation system that is not consumed by the customer's own load and is delivered to the City's electric distribution system.

General service demand means nonresidential consumers accepting electric service from the City directly from a distribution line and having an established demand of 20 kilowatts or more and 999 kilowatts or less for any nine consecutive months. All energy supplied shall be delivered through a single meter at a single point of delivery.

General service large demand means nonresidential consumers accepting electric service from the City directly from a distribution line and having an established demand of 1,000 kilowatts or more for any nine consecutive months. All energy supplied shall be delivered through a single meter at a single point of delivery.

General service nondemand means all electric service connections not included in the definitions of the terms "residential electric service," "general service demand" and "general service large demand."

Metering point (as distinguished from point of delivery) means the point at which the instrument is installed to meter the flow of electric energy from the City to the consumer. The City shall have the option to meter any service on either the primary or secondary side of the transformer.

Month means an interval between successive meter reading dates, which interval may be 30 days, more or less.

Net metering means a retail customer has installed a customer-owned renewable generation on the customer's side of the electric revenue meter and payment for the excess energy delivered to the City's electric distribution system shall be credited against the billing account of the customer.

Point of delivery means the point where the City's point wires or apparatus are connected with those of the consumer.

Residential electric service means a residential electric service installation in a single-family house, a single suite in a multiple-family house, a single suite in a multiple apartment or group of multiple apartments, and all bona fide farm uses. All energy supplied shall be through a single meter at a single point of delivery.

Service includes, in addition to all electric energy required by the consumer, the readiness and ability on the part of the City to furnish electric energy to the consumer; thus, the maintenance by the City at the point of delivery of approximately the agreed voltage and frequency shall constitute the rendering of service irrespective of whether the consumer makes any use thereof.

Wholesale avoided cost rate means the energy portion of the bulk power cost as determined monthly by the City divided by the total amount of energy supplied by the City during each month. Units for wholesale avoided cost rate are expressed as \$ per kW-hr.

(Code 1976, § 26-77; Ord. No. O-81-9, § 1(2), 3-26-1981; Ord. No. 83-5, § 1(2), 12-20-1982; Ord. No. O-90-22, § 1, 7-2-1990; Ord. No. 09-16, § 2, 9-28-2009; Ord. No. 12-02, § 2, 10-24-2011; Ord. No. 16-12, § 1, 7-25-2016)

Sec. 38-165. - Legislative findings.

- (a) It is the responsibility of the City to adopt an ordinance pertaining to rates and charges for electric services which will provide adequate funds to maintain and perpetuate the electric system and the consolidated electric, water and wastewater system, and to provide for an equitable distribution of costs among the users of such systems.
- (b) The electricity service charges adopted in this article are based on the cost of bulk power, on operating and maintenance expenses, and cost of debt service. Periodic review of the electric service charges is necessary to ensure revenue adequacy.
- (c) The monthly charges are designed to ensure that each user contributes the user's fair share of the operating, maintenance and purchasing expenses of the electric system and the user's fair share of the debt service expense of the consolidated electric, water and wastewater system.

(Code 1976, § 26-76; Ord. No. O-81-9, § 1(1), 3-26-1981; Ord. No. 83-5, § 1(1), 12-20-1982; Ord. No. 16-12, § 1, 7-25-2016)

Sec. 38-166. - The City Electric Service Policy Manual.

- (a) The Electric Service Policy Manual (attached as exhibit A to the ordinance from which this article is derived) is hereby adopted and is on file with the Office of the City Clerk and the Public Services Department. The Electric Service Policy Manual may be amended from time-to-time to account for changes in technology. Amendments that do not follow the intent of this section shall be presented for approval to the City Commission.
- (b) Compliance with the manual is hereby required.
- (c) Customers shall install all wiring and electrical equipment according to Florida Building Code, National Electrical Safety Code (NESC), and all other guidelines associated with the City Building Department or other applicable local inspection authority.
- (d)

If any installation, addition, or alteration requiring wiring permits is made by the customer, the City will not connect or alter service until approval of the installation is made by all local inspection authorities. The City's electric personnel have no obligation to determine whether a customer's wiring, equipment or general electrical installation is safe for use; however, the City will make a field visit to check the customer's service entrance facilities for compliance with the manual. If the electrical system is deemed unsafe or not in compliance, the City will refuse to connect service.

- (e) The Electric Service Policy Manual does not supersede the electric code of the City, the Florida Building Code, or State Statute, ordinance, rule or regulation applicable to electric systems but is supplementary to them. When conflicts exist between the manual and such other codes and rules, the more restrictive provisions shall apply.

(Ord. No. O-04-08, § 1(17-3), 12-1-2003)

Sec. 38-167. - Electric infrastructure facilities.

- (a) The developer or property owner shall be responsible for the full cost (engineering and construction) of any required installation, relocation, extension, improvement or modification of the City's electric facilities. In addition, if changes in the development, such as a replat, require changes in electric infrastructure, which is already in place, the developer or property owner shall be responsible for the costs associated with reconfiguring such facilities. Upon project completion, the developer or property owner shall convey said facilities to the City for acceptance.
- (b) The City may, upon direction by the City Commission, in its sole discretion, where a public purpose has been declared, offer an option through a developer agreement for the City to install electric infrastructure facilities, in the corporate limits, upon payment by the developer to the City. Said payment shall be an estimate of costs anticipated and shall be adjusted upon project completion. Acceptance of the infrastructure by the City will occur once all actual costs have been paid to the City. The developer agreement shall contain all pertinent terms and conditions of this option, which may include reimbursement to the developer for actual installation costs over a specified period of time.

Sec. 38-168. - Meters; City to install and maintain; installation charge, protection by consumer; damage through carelessness, neglect or misuse.

- (a) The City will install and properly maintain such meters and metering equipment as may be necessary to measure the electric service used by the consumer. Each applicant for electric service shall pay to the City, prior to the connection of such service, a meter installation charge of \$150.00. All meters, wires and other appliances furnished by the City remain the property of the City, and the consumer shall properly protect the City's property on the consumer's premises. In the event of any loss or damage to property of the City caused by, or arising out of, carelessness, neglect or misuse by the consumer, or other unauthorized parties, the cost of making good such loss or repairing such damage shall be paid by the consumer.
- (b) The electric meter installation charges to be billed and collected from consumers outside of the City's corporate limits shall be the same as set forth in subsection (a) of this section.

(Code 1976, § 26-94; Ord. No. O-81-9, § 1(19), 3-26-1981; Ord. No. 83-5, § 1(19), 12-20-1982; Ord. No. O-94-6, § 2, 2-22-1994)

Sec. 38-169. - Meter testing.

Upon written notice, a meter will be tested by the City; and, in the event the meter, when tested, is found to be not more than two percent fast or two percent slow, the expense of the test shall be paid by the consumer at a cost of \$35.00, and the meter shall be considered accurate. If the meter is found to be more than two percent fast or two percent slow, the expense of the test will be borne by the City, and the bill will be corrected for a period not to exceed three months.

(Code 1976, § 26-97; Ord. No. O-81-9, § 1(22), 3-26-1981; Ord. No. 83-5, § 1(22), 12-20-1982)

Sec. 38-170. - Residential electric service.

(a) *Base rate.* The rate to be charged and collected for electric energy furnished by the City to consumers for residential service shall be a customer service charge.

CUSTOMER CHARGE	\$9.14 per month
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Plus a kilowatt hour per month consumption charge for the first 1,000 kilowatt hours of energy consumed.

ENERGY CHARGE (1 st —1,000 kWh)	\$0.0934 per kWh
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Plus a kilowatt hour per month consumption charge in excess of 1,000 kilowatt hours of energy consumed.

ENERGY CHARGE (Above—1,000 kWh)	\$0.1036 per kWh
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(b) *Taxes.* An amount equal to all applicable taxes imposed against the sale or consumption of electric energy shall be added to the rates hereinabove set forth. The United States of America, the State and all political subdivisions, agencies, boards, commissions and instrumentalities thereof and all recognized churches are exempt from the City's utility tax.

(c) *Availability.* This service is available to consumers both within and outside the corporate limits of the city.

(Code 1976, § 26-85; Ord. No. O-81-9, § 1(10), 3-26-1981; Ord. No. 83-5, § 1(10), 12-20-1983; Ord. No. O-84-21, § 1, 10-1-1984; Ord. No. O-88-19, § 1, 4-18-1988; Ord. No. O-90-22, § 2, 7-2-1990; Ord. No. O-94-11, § 1, 8-1-1994; Ord. No. 09-16, § 1, 9-28-2009; Ord. No. 12-27, § 1, 9-24-2012; Ord. No. 15-10, § 1, 8-10-2015)

Sec. 38-171. - Nonresidential demand service.

- (a) *Base rate for general service demand.* The rate to be charged and collected for electric energy furnished by the City for nonresidential demand service shall be a customer service charge.

CUSTOMER CHARGE	\$45.71 per month
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Plus a kilowatt demand charge per month consumption for energy consumed.

DEMAND CHARGE	\$7.36 per kw
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Plus a kilowatt hour per month consumption charge for energy consumed.

ENERGY CHARGE	\$0.0701 per kWh
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- (b) *Base rate for general service large demand.* The rate to be charged and collected for electric energy furnished by the City for nonresidential large demand service shall be a customer service charge.

CUSTOMER CHARGE	\$45.71 per month
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Plus a kilowatt hour per month consumption charge for energy consumed.

DEMAND CHARGE	\$7.36 per kW
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Plus a kilowatt hour per month consumption charge for energy consumed.

ENERGY CHARGE	\$0.0670 per kWh
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- (c) *Taxes.* An amount equal to all applicable taxes imposed against the sale on consumption of electric energy shall be added to the rates hereinabove set forth. The United States of America, the State and all political subdivisions, agencies, boards, commissions and instrumentalities thereof and all recognized churches are exempt from the City's utility tax.
- (d) *Availability.* This service is available to consumers both within and outside the corporate limits of the city.

(Code 1976, § 26-86; Ord. No. O-81-9, § 1(11), 3-26-1981; Ord. No. 83-5, § 1(11), 12-20-1982; Ord. No. O-84-21, § 2, 10-1-1984; Ord. No. O-88-19, § 2, 4-18-1988; Ord. No. O-90-22, § 3, 7-2-1990; Ord. No. O-92-22, § 1, 3-16-1992; Ord. No. O-94-11, § 2, 8-1-1994; Ord. No. 09-16, § 1, 9-28-2009; Ord. No. 12-27, § 2, 9-24-2012; Ord. No. 15-10, § 1, 8-10-2015)

Sec. 38-172. - Nonresidential non-demand service.

- (a) *Base Rate.* The rate to be charged and collect for electric energy furnished by the City to consumers for general service non-demand service shall be a customer service charge.

CUSTOMER CHARGE	\$11.68 per month
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Plus a kilowatt hour per month consumption charge for energy consumed.

ENERGY CHARGE	\$0.0985 per kWh
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(b) *Taxes.* An amount equal to all applicable taxes imposed against the sale of consumption of electric energy shall be added to the rates hereinabove set forth. The United States of America, the State and all political subdivisions, agencies, boards, commissions and instrumentalities thereof and all recognized churches are exempt from the City's utility tax.

(c) *Availability.* This service is available to consumers both within and outside the corporate limits of the city.

(Code 1976, § 26-87; Ord. No. O-81-9, § 1(12), 3-26-1981; Ord. No. 83-5, § 1(12), 12-20-1982; Ord. No. O-84-21, § 3, 10-1-1984; Ord. No. O-88-19, § 3, 4-18-1988; Ord. No. O-94-11, § 3, 8-1-1994; Ord. No. 09-16, § 1, 9-28-2009; Ord. No. 12-27, § 3, 9-24-2012; Ord. No. 15-10, § 1, 8-10-2015)

Sec. 38-173. - Bulk power cost adjustment.

The energy charges provided for in Sections 38-170 through 38-172 shall be increased or decreased \$0.00001 per kilowatt-hour for each \$0.00001 per kilowatt-hour, or major fraction thereof of increase or decrease bulk power cost above or below a base cost of \$0.0535 per kilowatt-hour. In order to limit the variations in the bulk power cost adjustment, the City Manager may elect to phase in such increases or decreases over a period of time in accordance with the provisions of the Power Purchase Risk Management Policy.

(Code 1976, § 26-88; Ord. No. O-81-9, § 1(13), 3-26-1981; Ord. No. 83-5, § 1(13), 12-20-1982; Ord. No. 09-16, § 1, 9-28-2009; Ord. No. 16-12, § 1, 7-25-2016)

Sec. 38-174. - Surcharge; consumers outside the City limits.

- (a) The rates and minimum monthly charges to be assessed and collected by the City for electric energy furnished by the City to consumers outside of its corporate limits to consumers of electric service shall be the same as the rates set forth in this article, plus a surcharge equal to the amount of the City utility tax charged consumers inside the City limits; provided, however, that the United States of America, the State and all political subdivisions, agencies, boards, commissions and instrumentalities thereof are now hereby exempt from the payment of the surcharge imposed and levied hereby.
- (b) All recognized churches of the State which lie outside the corporate limits of the City and which properties are used exclusively for religious purposes are exempt from payment of any surcharge that may be made by the City on the sale of electricity to such properties.

(Code 1976, § 26-89; Ord. No. O-81-9, § 1(14), 3-26-1981; Ord. No. 83-5, § 1(14), 12-20-1982)

Sec. 38-175. - Security light.

The City will install and maintain security lights to augment street lighting as requested by electric service customers. The customer shall pay \$60.00 where there is an existing pole, and \$120.00 where a pole must be installed. The monthly charge for use and maintenance of such security lights and poles installed by the City shall be as follows:

Charge Item	Light Output (watts)	Monthly Charge
Cutoff, semi-enclosed	100	\$9.25
Cutoff, enclosed	100	\$11.00
Cutoff, enclosed	250	\$13.75
Cutoff, enclosed	400	\$19.50
Floodlight	250	\$13.75
Floodlight	400	\$19.50
Wood pole, up to 35 ft.	NA	\$3.50
Concrete pole, up to 35 ft.	NA	\$6.00

(Code 1976, § 26-92; Ord. No. O-81-9, § 1(17), 3-26-1981; Ord. No. 83-5, § 1(17), 12-20-1982; Ord. No. 89-18, § 1, 10-2-1989; Ord. No. 12-25, § 1, 8-27-2012)

Sec. 38-176. - Temporary electric service.

Temporary electric service, such as electric service for construction work, shall be rendered upon written application. The charge for temporary residential electric service shall be \$50.00 to cover the up and down cost of the service which is to be paid at the time of application. The monthly charge will be the applicable user charge for electricity consumed as recorded upon a temporary meter installed by the City. The charge for temporary general service demand and general service nondemand shall be the cost of installing the temporary service and removing the temporary service less salvage, with a minimum charge of \$50.00 to be paid at the time of application. The monthly charge will be the applicable charge for electricity consumed as recorded upon a temporary meter installed by the City.

(Code 1976, § 26-93; Ord. No. O-81-9, § 1(18), 3-26-1981; Ord. No. 83-5, § 1(18), 12-20-1982; Ord. No. O-94-6, § 1, 2-22-1994)

Sec. 38-177. - Fee for the joint use of city utility poles.

- (a) *Amendment.* If a utility desires joint use of the City's utility poles, they shall submit to the City all pertinent information concerning its use of the joint-use facility and must receive the City's approval to initiate the proposed joint use. The information shall include a drawing showing:
 - (1) Points of entry and exit on a particular structures.
 - (2) Technical information on conductor, support fixtures, support strand, cable, and any fixture to be attached to the structure in order to calculate structure loading and capacity requirements.
 - (3) Numbers of and distances to nearest structures.
 - (4) Name of line involved.
- (b) *Fee.* The rental per utility pole shall be \$16.50 per annum.
- (c) *Existing attachments.* The rental shall be paid in arrears for attachments existing in the prior calendar year. The City shall bill on or about January 1 of each year for the amount owed. The sum set forth in subsection (b) of this section shall be paid for each pole upon which an attachment existed for six months or more in any calendar year, whether it existed for all 12 months or less. One-half of the aforesaid sum shall be paid for each pole upon which an attachment existed for less than six months in any calendar year. The amount billed shall be payable within 30 days of receipt of the invoice.

(Ord. No. O-00-07, §§ 1—3, 12-20-1999)

Sec. 38-178. - Interconnection and net metering of customer-owned renewable generation systems.

- (a) The City Manager shall establish a written policy designating procedures for the interconnection and net metering of customer-owned renewable generation systems in order to promote the development and use of small, customer-owned renewable generation, particularly solar and wind energy systems; lessen the dependence on fossil fuels for energy production; minimize the volatility of fuel costs; improve the environment; and minimize the costs of energy supply to customers.
- (b) The interconnection of customer-owned renewable generation systems to the City's electric distribution system is on a first-offered, first-accepted basis. Application for interconnection and net metering shall be made for new services and any proposed modifications as described in Section 38-178(d). Interconnection is subject to diminution and/or rejection in the event the total amount of customer-owned renewable generation systems exceeds ten percent of the City's system energy requirements.
- (c) The interconnection of customer-owned renewable generation systems to the City's electric distribution system is limited to systems with the following maximum output:

Tier 1:	10 kW or less
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Tier 2:	10+ kW through 100 kW
Tier 3:	100+ kW through 1,500 kW

- (d) Customer-owned renewable generation systems is primarily intended to offset all or part of the customer's electric consumption requirements. As such, the gross power rating of a customer-owned renewable generation system shall be limited in size to 90 percent of the utility distribution service rating. The term "gross power rating" (GPR) means the total manufacturer's AC nameplate generating capacity of an on-site customer-owned renewable generation system that will be interconnected to and operate in parallel with the City distribution facilities. For inverter-based systems, the GPR shall be calculated by multiplying the total installed direct current (DC) nameplate generating capacity by 0.85 in order to account for losses during the conversion from DC to alternating current (AC). Customers desiring to increase the GPR of their customer-owned renewable generation system must notify the City in writing of the proposed modifications to the system and submit a new application for interconnection specifying the proposed modifications.
- (e) Customers desiring to interconnect a customer-owned renewable generation system to the City's electric distribution system must enter into a written agreement with the City providing the terms and conditions thereof.
- (f) *Metering.*
- (1) Energy metering from the interconnection of customer-owned renewable generation system shall be accomplished by separately registering the flow of energy both (1) from the City's electric distribution system; and (2) excess energy (kW-hr) generated by customer-owned renewable generation system and delivered to the City's electric system. The metering equipment for interconnection of customer-owned renewable generation systems shall be installed at the point of delivery at the expense of the City.
 - (2) Meter readings shall be taken monthly on the same cycle as required under the otherwise applicable rate schedule.
 - (3) Any meter or meters installed to measure total renewable electricity generated by the customer for the purposes of receiving Renewable Energy Certificates (or similarly titled credits for renewable energy electricity generated) shall be installed at the expense of the customer, unless determined otherwise during negotiations for the sale of the customer's credits to the City.
- (g) *Charges.* All rates charged for customer-owned renewable generation shall be in accordance with the customer's otherwise applicable rate schedule (i.e., residential, general service demand, general service, nondemand, etc.). Customers with customer-owned renewable generations systems are responsible for all charges from their otherwise applicable rate schedule including monthly minimum charges, customer charges, meter charges, facilities charges, demand charges and surcharges. Charges for energy (kW-hr) supplied by the City will be based on the net metered consumption of energy in accordance with the following:
- (1) Electric energy from the customer-owned renewable generation system shall first be used to serve the load and offset the demand for energy from the City's electric distribution system by the customer.
 - (2)

Customer shall be billed for the total amount of electric energy delivered to customer by the City during the billing period in accordance with the otherwise applicable rate schedule.

- (3) Excess customer-owned renewable generation shall be purchased by the City in the form of a credit to the customer on their monthly energy bill. Each billing cycle, the customer will be credited for the total amount of excess energy generated by the customer-owned renewable generation that is delivered to the City's electric system during the previous billing cycle. Any credit to the customer will be determined in accordance with the applicable energy and bulk power cost adjustment charges (expressed in \$ per kW-hr).
- (4) In the event that a credit for excess customer-owned renewable generation exceeds the total billed amount for customer's consumption in any corresponding billing period, the excess credit shall be applied to the customer's subsequent bill. Excess energy credits produced shall accumulate and offset customer's energy consumption bill for a period not to exceed 12 months. In the last billing cycle of each fiscal year, any unused excess energy credits shall be paid by the City to the customer, at the wholesale avoided cost rate as defined by the City Code.
- (5) In the event that a customer closes an account, unused excess energy credits shall be paid to the customer at the wholesale avoided cost rate. The payment will first be applied towards outstanding charges associated with the customer's account. Any balance will be sent to the last address or forwarding address by check within 180 days.
- (6) On a monthly basis, the customer shall pay applicable customer and demand charges, regardless of whether excess energy is delivered to the City's electric system in that billing period.
- (7) A service charge of \$10.00 shall be billed monthly for each interconnected meter service.

- (h) *Application and inspection fees.* Customer shall pay the following fees for the review and processing of applications for interconnection of customer-owned renewable generation systems:

(1)	Tier 1:	\$75.00
(2)	Tier 2:	\$350.00
(3)	Tier 3:	\$800.00

- (i) *Customer insurance.*

- (1) Customers installing and operating an interconnected renewable generation system with a gross power rating of 10 kW or less shall not be required to provide proof of liability insurance. However, it is highly recommended that such customers carry an appropriate level of such insurance.

(2) Customers installing and operating an interconnected renewable generation system with a gross power rating of more than 10 kW shall provide proof of continuous general liability insurance covering personal injury and property damage with coverage limits no less than \$1,000,000.00/\$1,000,000.00. Proof of such insurance naming the City as the Certificate Holder shall be provided to the City prior to interconnection and on at least an annual basis thereafter.

(Ord. No. 12-02, § 3, 10-24-2011; Ord. No. 15-04, § 2, 3-23-2015; Ord. No. 16-16, § 1, 9-12-2016)

Secs. 38-179—38-199. - Reserved.

ARTICLE VI. - INFRASTRUCTURE IMPROVEMENT AREAS

Sec. 38-200. - Definitions.

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

Infrastructure improvement area means the geographic boundaries for each area within the City that is designated by the City and delineated by the map(s) depicted in figure(s) within this article.

Infrastructure improvement area fees means the user fees charged pursuant to this article to support the funding of public infrastructure improvements to the water distribution and wastewater collection systems within an infrastructure improvement area.

Non-residential establishment means all uses other than residential as defined below.

Residential establishment means single-family or multi-family dwelling unit.

(Ord. No. 18-23, § 4(Exh. A), 9-24-2018)

Sec. 38-201. - Legislative findings.

It is the intent of this article that the City may, subject to the availability of funds and resources, designate infrastructure improvement areas for wastewater collection systems and water distribution systems in locations within the City where it is feasible and beneficial for economic development. Infrastructure improvement area fees will be imposed as repayment of any funds expended by the City for the construction of the improvements.

(Ord. No. 18-23, § 4(Exh. A), 9-24-2018)

Sec. 38-202. - Criteria for infrastructure improvement areas.

In determining if a location is feasible and beneficial for economic development and suitable for an infrastructure improvement area, the City may consider, among other things, whether it is in the public interest to Master Plan the infrastructure in the area in order to provide efficient and cost-effective public utility services throughout the City, and whether multiple developments are anticipated in the area, which will contribute to the funding of the infrastructure improvements.

(Ord. No. 18-23, § 4(Exh. A), 9-24-2018)

Sec. 38-203. - Funding for infrastructure improvement areas.

The funding to pay for the construction of Infrastructure Improvement Areas will be paid for by development(s), or they may be initially funded by the City and reimbursed by developments and users as provided for by each specific infrastructure improvement Area. Infrastructure improvement area fees shall be in addition to, and not in lieu of, any and all other fees and charges assessed by the City, including, but not limited to, capital facilities charges and meter installation charges.

(Ord. No. 18-23, § 4(Exh. A), 9-24-2018)

Sec. 38-204. - Designated infrastructure improvement areas.

The following areas are designated as infrastructure improvement areas:

- (1) Alachua East Wastewater Collection Infrastructure Improvement Area ("Area 1").
 - a. Area 1 is depicted in Figure 1 below:

- b. Construction by Master Plan. The construction of the infrastructure improvements for wastewater collection in Area 1 ("Improvements") will be accomplished by Master Planning. The fees for the Improvements set forth below are based upon the Master Plan for Area 1 of the future wastewater collection system infrastructure improvements for Area 1 that includes the estimated capital construction costs for such improvements and the anticipated future non-residential establishments in Area 1 that will receive the benefit of these improvements. The user fees set forth below collected by the City in Area 1 shall be used by the City to fund the improvements in Area 1.
- c. Area 1 Funding. Subject to availability of funds, the City is authorized to fund the improvements and be reimbursed by infrastructure improvement area fees ("fees"). The fees have been calculated based upon the Master Plan for Area 1, which may be amended from time to time, and anticipated development activity in Area 1. The fees will be reviewed periodically and adjusted according to revisions in the Master Plan for Area 1 or to account for changing inflationary or economic conditions. The initial fees are as follows:
 - 1. Each new or existing non-residential establishment that connects to the improvements shall pay the City \$0.50 per square foot of the gross building square footage at the time it connects to the improvements. No final inspection will be conducted or wastewater services provided until the fees have been paid to the City.

Fees shall not apply if a structure is destroyed by fire or other unforeseen casualty and the new structure is reconstructed in substantially the same square footage as the structure that was destroyed. The fees shall be paid upon application for final inspection.

(2) Alachua West Wastewater Collection Infrastructure Improvement Area ("Area 2").

- a. Area 2 is depicted in Figure 2 below.



- b. Construction by Master Plan. The construction of the infrastructure improvements for wastewater collection in Area 2 ("Improvements") will be accomplished by Master Planning. The fees for the Improvements set forth below are based upon the Master Plan for Area 2 of the future wastewater collection system infrastructure improvements for Area 2 that includes the estimated capital construction costs for such improvements and the anticipated future non-residential establishments and residential establishments in Area 2 that will receive the benefit of these improvements. The user fees set forth below collected by the City in Area 2 shall be used by the City to fund the improvements in Area 2.
- c. Area 2 funding. Subject to availability of funds, the City is authorized to fund the improvements and be reimbursed by infrastructure improvement area fees ("fees"). The fees have been calculated based upon the Master Plan for Area 2, which may be amended from time to time, and anticipated development activity in Area 2. The fees will be reviewed periodically and adjusted according to revisions in the Master Plan for Area 2 or to account for changing inflationary or economic conditions. The initial fees are as follows:
 1. Each new or existing non-residential establishment that connects to the Improvements shall pay the City \$0.75 per square foot of the gross building square footage at the time it connects to the improvements. No final inspection will be conducted or wastewater services provided until the fees have been paid to the City.
 - 2.

Each new or existing residential establishment that connects to the improvements shall pay the City \$275.00 at the time it connects to the improvements. No final inspection will be conducted or wastewater services provided until the fees have been paid to the City.

Fees shall not apply if a structure is destroyed by fire or other unforeseen casualty and the new structure is reconstructed in substantially the same square footage as the structure that was destroyed. The fees shall be paid upon application for final inspection.

(3) Alachua West Water Distribution Infrastructure Improvement Area ("Area 3").

- a. Area 3 is depicted in Figure 3 below.



- b. Construction by Master Plan. The construction of the infrastructure improvements for water distribution in Area 3 ("improvements") will be accomplished by Master Planning. The fees for the improvements set forth below are based upon the Master Plan for Area 3 of the future water distribution system infrastructure improvements for Area 3 that includes the estimated capital construction costs for such improvements and the anticipated future non-residential establishments and residential establishments in Area 3 that will receive the benefit of these improvements. The user fees set forth below collected by the City in Area 3 shall be used by the City to fund the improvements in Area 3.
- c. Area 3 funding. Subject to availability of funds, the City is authorized to fund the improvements and be reimbursed by infrastructure improvement area fees ("fees"). The fees have been calculated based upon the Master Plan for Area 3, which may be amended from time to time, and anticipated development activity in Area 3. The fees will be reviewed periodically and adjusted according to revisions in the Master Plan for Area 3 or to account for changing

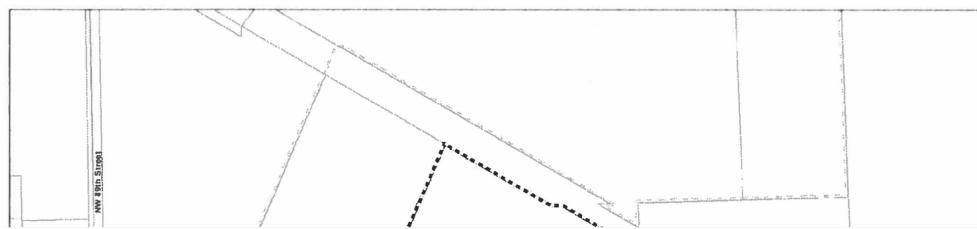
inflationary or economic conditions. The initial fees are as follows:

1. Each new or existing non-residential establishment that connects to the improvements shall pay the City \$0.50 per square foot of the gross building square footage at the time it connects to the improvements. No final inspection will be conducted or water services provided until the fees have been paid to the City.
2. Each new or existing residential establishment that connects to the improvements shall pay the City \$250.00 at the time it connects to the improvements. No final inspection will be conducted or water services provided until the fees have been paid to the City.

Fees shall not apply if a structure is destroyed by fire or other unforeseen casualty and the new structure is reconstructed in substantially the same square footage as the structure that was destroyed. The fees shall be paid upon application for final inspection.

(4) Alachua East Water Distribution Infrastructure Improvement Area ("Area 4").

a. Area 4 is depicted in Figure 4 below:



b. Construction by Master Plan. The construction of the infrastructure improvements for water distribution in Area 4 ("Improvements") will be accomplished by master planning. The fees for the Improvements set forth below are based upon the Master Plan for Area 4 of the future water distribution system infrastructure improvements for Area 4 that includes the estimated capital construction costs for such Improvements and the anticipated future non-

residential establishments and residential establishments in Area 4 that will receive the benefit of these Improvements. The user fees set forth below collected by the City in Area 4 shall be used by the City to fund the Improvements in Area 4.

c. Area 4 Funding. Subject to availability of funds, the City is authorized to fund the Improvements and be reimbursed by infrastructure improvement area fees ("Fees"). The fees have been calculated based upon the Master Plan for Area 4, which may be amended from time to time, and anticipated development activity in Area 4. The fees will be reviewed periodically and adjusted according to revisions in the Master Plan for Area 4 or to account for changing inflationary or economic conditions. The initial Fees are as follows:

1. Each new or existing non-residential establishment that connects to the Improvements shall pay the City \$0.25 per square foot of the gross building square footage at the time it connects to the improvements. No final inspection will be conducted or water services provided until the fees have been paid to the City.
2. Each new or existing residential establishment that connects to the improvements shall pay the City \$250.00 at the time it connects to the improvements. No final inspection will be conducted or water services provided until the Fees have been paid to the City.

Fees shall not apply if a structure is destroyed by fire or other unforeseen casualty and the new structure is reconstructed in substantially the same square footage as the structure that was destroyed. The Fees shall be paid upon application for final inspection.

(Ord. No. 18-23, § 4(Exh. A), 9-24-2018; Ord. No. 19-24, § 4(Exh. A), 5-6-2019)

Chapter 39 - COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY

Sec. 39-1. - Short title.

This chapter shall be known, and may be cited, as the "City of Alachua Communications Facilities in Public Rights-of-Way Ordinance."

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-2. - Findings, intent and scope.

- (a) The City hereby makes and declares the following findings and declares its legislative intent as follows:
 - (1) The public rights-of-way within the City are a unique and physically limited resource and important amenity that are critical to the travel and transport of persons and property in the City.
 - (2) The demand for telecommunications services has grown exponentially in recent years, requiring the continual upgrading of telecommunications equipment and services to satisfy such demand.

- (3) The placement of telecommunications equipment and facilities in the public rights-of-way to satisfy the demand for telecommunications services raises important issues with respect to the City's responsibility to manage its public rights-of-way.
 - (4) The public rights-of-way must be managed and controlled in a manner that enhances the health, safety and general welfare of the City and its citizens.
 - (5) The use and occupancy of the public rights-of-way by providers of communications services must be subject to regulation which can ensure minimal inconvenience to the public, coordinate users, maximize available space, reduce maintenance and costs to the public, and facilitate entry of an optimal number of providers of cable, telecommunications, and other services in the public interest.
 - (6) F.S. § 166.041, provides for procedures for adoption of an ordinance which is a regulation of general and permanent nature and enforceable as local law.
 - (7) F.S. § 337.401, provides that because federal and state law require the nondiscriminatory treatment of providers of telecommunications services and because of the desire to promote competition among providers of communications services, it is the intent of the Florida Legislature that municipalities and counties treat providers of communications services in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of communications facilities in the public roads or rights-of-way.
 - (8) The City finds that, to promote the public health, safety and general welfare, it is necessary to: (i) provide for the placement or maintenance of communications facilities in the public rights-of-way within the City limits, (ii) adopt and administer reasonable rules, regulations and general conditions not inconsistent with applicable state and federal law, (iii) manage the placement and maintenance of communications facilities in the public rights-of-way by all communications services providers, (iv) minimize disruption to the public rights-of-way, and (v) require the restoration of the public rights-of-way to original condition.
 - (9) The City's intent is that these rules and regulations must be generally applicable to all providers of communications services and, notwithstanding any other law, may not require a provider of communications services to apply for or enter into an individual license, franchise, or other agreement with the City as a condition of placing or maintaining communications facilities in its roads or rights-of-way.
 - (10) It is also the City's intent to exercise the City's retained authority to regulate and manage the City's roads and rights-of-way in exercising its police power over communications services providers' placement and maintenance of facilities in the public rights-of-way in a nondiscriminatory and competitively neutral manner.
- (b) This chapter shall apply to any public or private entity who seeks to construct, place, install, maintain or operate a communications system or facilities, as such terms are defined herein, in the public rights-of-way, unless otherwise exempt by operation of applicable state or federal law. This chapter shall equally apply to a City owned or controlled communications system except to the extent such facilities are utilized on an internal, non-commercial basis by the City or any of its agencies, departments or bureaus.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-3. - Definitions.

For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings ascribed herein. Where not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural. The words "shall," "will" and "must" are mandatory, and "may" is permissive. Words not otherwise defined herein shall have the meaning ascribed thereto under F.S. ch. 202 or 337, as amended, or where none is ascribed shall be construed to mean the common and ordinary meaning:

Abandonment means the permanent cessation of all uses of a communications facility; provided that this term shall not include cessation of all use of a facility within a physical structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit continues to be used, shall not be "abandonment" of a facility in the public rights-of-way.

Affiliate means each person, directly or indirectly, controlling, controlled by, or under common control with a communications services provider that is registered with the city; provided that affiliate shall in no event mean any limited partner, member, or shareholder holding an interest of less than 15 percent in such communications services provider.

Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services or other communications services.

Applicable codes means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes or ordinances adopted to implement this subsection. The term includes objective design standards adopted by ordinance which may require that a new utility pole replacing an existing utility pole be of substantially similar design, material, and color, or that ground-mounted equipment meet reasonable spacing requirements. The term includes objective design standards adopted by ordinance which may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, the city may waive the design standards upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense. The waiver must be granted or denied within 45 days after the date of the waiver request.

Applicant means a person who submits an application and is a wireless provider.

Application means a request submitted by an applicant to the city for a permit to collocate small wireless facilities.

As-built surveys means the final and complete drawings in hard copy signed and sealed by a professional surveyor and mapper (as defined in F.S. § 472.005) and the final and complete electronic overview map (in autocad, microstation, mapinfo or ESRI format) presented in computer input medium such as CD-ROMs, DVD or zip100/250. As-built surveys, in both the drawings and the electronic overview map, must show the present state of a communications services provider's facilities in the public rights-of-way, including, but not limited to, the horizontal and vertical location of facilities located at least every 100 feet and at any alignment change. Horizontal locations on all points of facilities shall be from street centerline, or section or quarter section lines or corners. Vertical locations on all points of facilities shall consist of elevations in either City datum or United States Geological Survey datum.

Cable service means the one-way transmission to subscribers of video programming or any other programming service; and subscriber interaction, if any, that is required for the selection or use of such video programming or other programming service.

Cable service provider means a person that provides cable service over a cable system.

Cable system means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community, but such term does not include: A facility that serves only to retransmit the television signals of one or more television broadcast stations; a facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way; a facility that serves subscribers without using any public right-of-way; a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the federal Communications Act of 1934 except such facility shall be considered a cable system other than for purposes of 47 U.S.C. Section 541(c) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; any facilities of any electric utility used solely for operating its electric utility systems; or an open video system that complies with 47 U.S.C. Section 573.

Chapter means the City of Alachua Communications Facilities in Public Right-of-Way Ordinance, codified as [Chapter 39](#) of the City Code pursuant to that ordinance enacted by City Commission effective on December 10, 2018, as may be amended or supplemented from time to time.

City means the City of Alachua, Florida, a municipal corporation organized and existing under the laws of the State of Florida.

City Code means the municipal Code of Ordinances of the City of Alachua, Florida.

City Commission means the governing body for the City.

City utility pole means a utility pole owned by the City in the right-of-way.

Collocate or *collocation* means to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way, nor does it include interconnection of communications facilities or the sale or purchase of capacity (whether bundled or unbundled).

Communications facilities permit means the right-of-way utilization permit required under City of Alachua Code of Ordinances, [Chapter 39](#) to commencement of any placement or maintenance of communication facilities in the public rights-of-way.

Communications facility, facility or facilities means any portion of a communications system located in the public rights-of-way.

Communications services means the definition ascribed thereto in F.S. § 202.11(1), as may be amended, and also includes but is not limited to wireless services as defined herein.

Communications services provider means: (i) any person, municipality or county providing communications services through the use and operation of a communications system or communications facilities installed, placed and maintained in the public rights-of-way, regardless of whether such system or facilities are owned or leased by such person, municipality or county and regardless of whether such person, municipality or county has registered with the Florida Department of Revenue as a provider of communications services in Florida pursuant to F.S. ch. 202, and (ii) any person, municipality or county who constructs, installs, places, maintains or operates communications facilities in the public rights-of-way but who does not provide communications services, including for example a company that places "dark fiber" or conduit in the public rights-of-way and leases or otherwise provides those facilities to another company that does provide communications services.

Communications system or *system* means any permanent or temporary plant, equipment and property placed or maintained in the public rights-of-way that is occupied or used, or is capable of being occupied or used, by a communications services provider for the purpose of producing, conveying, routing, transmitting, receiving, amplifying, distributing, providing or offering communications services including, but not limited to cables, wires, lines, conduits, fiber optics, antennae, radios and any associated poles, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, and other plant, equipment and pathway.

Dealer means any person, municipality or county providing communications services to an end user in city through the use and operation of communications facilities installed, placed and maintained in the public rights-of-way, whether owned or leased, and who has registered with the Florida Department of Revenue as a provider of communications services pursuant to F.S. ch. 202. This definition of "dealer" is intended to include any "reseller."

Department means the Florida Department of State.

Excavation or other similar formulation of that term means the cutting, trenching or other disturbance to the public rights-of-way intended to change the grade or level of land or which causes any cavity, gap, depression, penetration or hole in the surface of the public rights-of-way.

FCC means the Federal Communications Commission.

Franchise means an initial authorization or renewal of an authorization, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, to construct and operate a cable system or video service provider network facilities in the public right-of-way.

Franchise authority means any governmental entity empowered by federal, state, or local law to grant a franchise.

Government means the United States of America, the State of Florida, counties, municipalities, and any of their respective agencies, departments or bureaus.

In the public rights-of-way means in, along, on, over, under, across or through the public rights-of-way.

Micro wireless facility means a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

Pass-through facilities means the facilities for a communication system that merely pass through the City from one point to another point and from which no revenues are directly attributable to subscribers or other carriers within the City.

Pass-through provider means any person, municipality or county that places or maintains a communications system or communications facilities in the public rights-of-way but who does not provide communications services, including for example a company that places "dark fiber" or conduit in the public rights-of-way and leases or otherwise provides those facilities to another company that does provide communications services to an end user. This definition of "pass-through provider" is intended to include any person that places or maintains "pass-through facilities" in the public rights-of-way, but does not provide communications services to an end user within the corporate limits of the City.

Person means any individual, firm, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, association, corporation, company, organization or legal entity of any kind, including any affiliate, successor, assignee, transferee or personal representative thereof, and all other groups or combinations, and shall include the City to the extent that the City acts as a communications services provider.

Placement or maintenance or placing or maintaining or other similar formulation of that term means the named actions interpreted broadly to encompass, among other things, erection, construction, reconstruction, installation, inspection, maintenance, placement, replacement, extension, expansion, repair, removal, operation, occupation, location, relocation, grading, undergrounding, trenching or excavation. Any communications services provider that owns, leases or otherwise controls the use of a communications system or facility in the public rights-of-way, including the physical control to maintain and repair, is "placing or maintaining" a communications system or facility. A person providing service only through buying wholesale and then reselling is not "placing or maintaining" the communications facilities through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the public rights-of-way does not constitute "placing or maintaining" facilities in the public rights-of-way.

Public rights-of-way means land in which the City owns the fee or has an easement devoted to or required for use as a transportation facility, as that term is defined in F.S. § 334.03(21). "Public rights-of-way" shall not include: (a) county, state or federal rights-of-way, (b) property owned by any person other than the City, (c) service entrances or driveways leading from the road or street onto adjoining property, or (d) except as described above, any real or personal property of the City, such as, but not limited to, City parks, buildings, fixtures, conduits, water lines, sewer lines, facilities or other structures or improvements, regardless of whether they are situated in the public rights-of-way.

Public Service Commission or PSC means the agency for the State of Florida charged with the powers and duties conferred upon it by F.S. ch. 364.

Record drawings means a final and complete drawing accurately depicting the improvements as constructed. Record drawings are not required to be signed and sealed by a professional surveyor and mapper.

Registration or register other similar formulation of that term means the process described in section 39-4 herein whereby a communications services provider provides certain information to the City.

Reseller means any person providing communications services within the City over a communications system, or portion thereof, for which a separate charge is made, where that person does not place or maintain, nor own or control, any of the underlying facilities in the public rights-of-way used for transmission. Instead such person purchases the service, usually at wholesale, from a communications services provider and then resells it at retail or such person uses the public rights-of-way by either

interconnecting with the facilities of a communications services provider utilizing the public rights-of-way or by leasing excess capacity from a facility-based communications services provider.

Small wireless facility means a wireless facility that meets the following qualifications: (a) each antenna associated with the facility is located inside an enclosure of no more than six cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than six cubic feet in volume; and (b) all other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: Electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

Utility pole means a pole or similar structure used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The term includes the vertical support structure for traffic lights, but does not include any horizontal structures upon which are attached signal lights or other traffic control devices and does not include any pole or similar structure 15 feet in height or less unless the City grants a waiver for the pole.

Video programming means programming provided by, or generally considered comparable to programming provided by, a television broadcast station as set forth in 47 U.S.C. Section 522(20).

Video service means video programming services, including cable services, provided through wireline facilities located at least in part in the public rights-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider as defined in 47 U.S.C. Section 332(d), video programming provided as part of and via a service that enables end users to access content, information, electronic mail, or other services offered over the public Internet.

Video service provider means an entity providing video service.

Wireless facilities means equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities. The term does not include: (a) the structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated, or (b) wireline backhaul facilities, or (c) coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

Wireless infrastructure provider means a person who has been certificated to provide telecommunications service in the state, and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures, but is not a wireless services provider.

Wireless provider means a wireless infrastructure provider or a wireless services provider.

Wireless services means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

Wireless services provider means a person who provides wireless services.

Wireless support structure means a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-4. - Registration.

Every communications services provider that desires to place or maintain a communications system or any communications facilities in the public rights-of-way, including any pass through facilities, shall first register with the City in accordance with this section. Subject to the provisions prescribed in this chapter, a communications services provider that has properly registered may apply for communications facility permits to place or maintain a communications system or facilities in the public rights-of-way.

- (1) Every communications services provider that desires to place or maintain communications facilities in the public rights-of-way, including any pass through facilities, shall register with the City public services department and shall submit the following information and documentation:
 - a. The name of the applicant under which it will transact business in the City and, if different, in the State of Florida; and
 - b. The address and telephone number of the applicant's principal place of business in the State of Florida and any branch office located in the City or, if none, the name, address and telephone number of the applicant's national headquarters and its registered agent in Florida; and
 - c. The name, address and telephone number of the applicant's primary contact person and the person to contact in case of an emergency; and
 - d. The type of communications services that the applicant intends to provide within the corporate limits of the City (if more than one, state all that apply), or, if none, state that the applicant is a pass-through provider or is intending only to place and maintain pass through facilities, as the case may be; and
 - e. For registrations submitted on or after December 10, 2018, a copy of both the applicant's resale certificate and certificate of registration issued by the Florida Department of Revenue to engage in the business of providing communications services in the State of Florida; and
 - f. A copy of the applicant's certificate of authorization, public convenience and necessity or other similar certification issued by the Florida Public Service Commission; and
 - g. The number of the applicant's certificate of authorization or license to provide communications services issued by the Florida Public Service Commission, the Department, the FCC, or other Federal authority, if any; and
 - h. For an applicant that is a Pass-through Provider, in lieu of paragraphs e., f. and g. above, the applicant shall provide a certified copy of the certificate or license issued by the Florida Department of State, or other appropriate state agency or department, authorizing the company to do business in the State of Florida; and
 - i. Evidence of the applicant's insurance coverage as required under this chapter.
- (2)

The City shall review the information submitted by the applicant. Such review shall be by the City Public Services Director or his or her designee. If it is found that the applicant complied with the requirements in subsection (1) above, the registration shall be effective and the City shall notify the applicant of the effectiveness of registration in writing. If the City determines that the applicant is not in compliance, the City shall notify the applicant in writing of the non-effectiveness and denial of Registration and the reasons therefor. The City shall so reply to an applicant within 30 days after receipt of the registration and required information from the applicant. Non-effectiveness and denial of registration shall not preclude an applicant from reapplying or filing subsequent applications for registration under the provisions of this section.

- (3) An effective registration does not, and shall not be construed to, convey equitable or legal title in the public rights-of-way to any communications services provider. Registration under the ordinance form which this chapter is derived governs only the placement or maintenance of a communications system or communications facilities in the public rights-of-way. Other ordinances, codes or regulations may apply to the placement or maintenance in the public rights-of-way of facilities that are not part of a communications system. Registration does not excuse a communications services provider from obtaining appropriate access or pole attachment agreements before locating its facilities on those facilities or property belonging to the City or another person. Registration does not excuse a communications services provider from complying with all other applicable City ordinances, codes or regulations, including the rules, regulations and general conditions set forth in this chapter.
- (4) A communications services provider may cancel a registration upon written notice to the city stating that it will no longer place or maintain a communications system or any communications facilities in the public rights-of-way and will no longer have a need to apply for communications facility permits to perform construction or other work in the public rights-of-way. A communications services provider cannot cancel a registration if it intends to continue placing or maintaining a communications system or any communications facilities in the public rights-of-way.
- (5) Registration, in and of itself, does not establish a right to place or maintain or a priority for the placement or maintenance of a communications system or any facility in the public rights-of-way, but shall establish for the communications services provider a right to apply for a communications facility permit from the City. Registrations are expressly subject to any future amendment to or replacement of this chapter and further subject to any additional City ordinances, as well as any state or federal laws that may be enacted. Registration does not excuse or exempt a communications services provider from having to pay for a business tax license from the City in accordance with the City Code.
- (6) A communications services provider shall renew its registration with the City by April 1 of even numbered years in accordance with the registration requirements in this chapter, except that any communications services provider that initially registers during the even numbered year when renewal would be due or the odd numbered year immediately preceding such even numbered year shall not be required to renew its registration until the next even numbered year. Within 30 days of any change in the information required to be submitted pursuant to subsection (1), a communications services provider shall provide updated information to the City. If no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may result in the city restricting the issuance of additional communications facility permits until the communications services provider has complied with the registration requirements of this chapter.
- (7)

In accordance with applicable City ordinances, codes or regulations, a communications facility permit is required for a communications services provider to place or maintain a communications facility in the public rights-of-way. An effective registration shall be a condition of obtaining such a permit. Notwithstanding an effective registration, all permitting requirements shall apply, including the requirement to pay for any such permits unless otherwise provided by resolution or ordinance of the City. A permit may be obtained by or on behalf of the communications services provider having an effective registration if all permitting requirements of the City and other provisions of this chapter are met.

(8) A reseller, which by definition does not place or maintain communications facilities in the public rights-of-way, is not required to register with the City.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-5. - Notice of transfer, sale or assignment of assets.

If a communications services provider transfers, sells or assigns its system or any facilities located in the public rights-of-way incident to a transfer, sale or assignment of the communications services provider's assets, the transferee, buyer or assignee shall be obligated to comply with the provisions set forth in this chapter. Written notice of any such transfer, sale or assignment shall be provided by the communications services provider to the city within 30 days after the effective date of such transfer, sale or assignment. If the transferee, buyer or assignee is not currently registered with the City, then the transferee, buyer or assignee must register as provided in [section 39-4](#) within 60 days of the effective date of such transfer, sale or assignment. If any applications for communications facility permits are pending under the communications services provider's name as of the date the City receives written notice of the transfer, sale or assignment, then the City shall consider the transferee, buyer or assignee as the new applicant unless otherwise notified by the communications services provider.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-6. - Rules, regulations and general conditions to placement of communications systems and facilities in the public right-of-way.

As a condition of allowing the placement or maintenance of a communications system or any communications facility in the public rights-of-way, and under additional authority granted pursuant to F.S. ch. 337, the City hereby imposes the following rules, regulations and general conditions. Unless otherwise provided in this chapter, these rules, regulations and general conditions shall apply to all communications services providers, including those that are pass-through providers irrespective of whether they place and maintain only conduit, dark fiber or pass-through facilities.

(1) *Rules on Utilization of the Public Rights-of-Way.*

- a. *Compliance with laws.* A communications services provider shall at all times be in full compliance with and abide by all applicable federal, state and local laws, codes and regulations in placing or maintaining a communications system and facilities in the public rights-of-way.
- b. *Due care.* A communications services provider shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas.
- c.

Permits. A communications services provider shall not commence to place or maintain a communications facility in public rights-of-way until all applicable permits have been issued by the City and other appropriate authority, except in the case of an emergency. The term "emergency" shall mean a condition that affects the public's health, safety or general welfare, which includes an unplanned out-of-service condition of a pre-existing service. The communications services provider shall provide prompt notice to the City of the placement or maintenance of a communications facility in the public rights-of-way in the event of an emergency and shall, after-the-fact, be required to submit plans and record drawings and as-built surveys, if required by the City Public Services Director, showing the placement or relocation of a communications facility undertaken in connection with the emergency.

- d. *Application for communications facility permit.* Prior to the issuance of a communications facility permit to allow the placement or maintenance of a communications system or facility in the public rights-of-way, the City has the right to first review and consider and the communications services provider shall provide all of the following:
 1. The expected dates and times when the facility will be installed and the estimated time needed for construction and placement of the proposed facility;
 2. The location of the proposed facility, the public rights-of-way affected and a description of the facility, including the type of facility (e.g. conduit, fiber, twisted pair, etc.), the number of fibers or other cable being installed, and the approximate size of the facility (e.g. length, height, width and diameter); and
 3. Plans, drawings, photographs, schematics (including cross section layout), and calculations (i.e. pole loading) prepared by a qualified Florida licensed engineer showing where the facility is proposed to be located in the public rights-of-way and showing any known communications facilities or utility facilities in such public rights-of-way.
- e. *Revised plans.* If the plans or drawings submitted showing the proposed location for installation of the facility in the public rights-of-way require revision for any reason prior to commencing construction, the communications services provider shall promptly submit revised plans and drawings to the City Public Services Director.
- f. *Power to restrict area.* To the extent not otherwise prohibited by state or federal law, the City shall have the power to prohibit or limit the placement of new or additional communications facilities within a particular area of the public rights-of-way and deny the issuance of a communications facility permit.
- g. *Limited purpose of communications facility permit.* A communications facility permit issued by the City constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this chapter, and does not create any property right or other vested interest, or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way. Communications facility permits shall be granted only for specific routes or locations in the public rights-of-way and for such term as described in the permit. The City's issuance of a communications facility permit shall not be construed as a warranty that the placement of any communications facility is in compliance with applicable codes, regulations or laws.
- h. *Responsibility for contractors.* Every communications services provider that is registered with the City shall be liable for the actions of contractor(s) hired by them to perform the placement or maintenance of facilities in the public rights-of-way and shall be responsible for making sure that such contractor meets and complies fully with the rules, regulations and general conditions set forth in this chapter.

(2) *Regulations on the Placement or Maintenance of Communications Facilities.*

- a. *Provision and form of record drawings and as-built surveys.* Within 45 days after completion of any placement or maintenance of a communications facility in the public rights-of-way, the communications services provider shall provide the City with record Drawings showing the final location of such facility in the public rights-of-way. Upon request by the City Public Services Director or designee, the communications services provider shall also provide the City with as-built surveys within 45 days after completion of any placement or maintenance of a communications facility in the public rights-of-way. The record drawings and as-built surveys shall be provided to the City at no cost.
- b. *Production and filing of as-builts.* Every communications services provider that is registered with the City shall produce and keep on file at its principal place of business an accurate and complete set of as-builts of all facilities placed and maintained in the public rights-of-way. The location and identification of facilities and the production of as-builts shall be at the sole expense of the communications services provider. Within 30 days of any written request by the City Public Services Director or designee, the communications services provider must provide to the City, at no cost, copies of complete sets of as-builts for the indicated public rights-of-way. The failure of the communications services provider to produce, keep on file, or provide to the City as-builts as required under this chapter is sufficient grounds for the City to deny the issuance of communications facility permits in the future.
- c. *Removal of facilities placed without permit.* Any communications facilities placed in the public rights-of-way by the communications services provider without first having obtained the required communications facility permits shall be removed within 30 days of written notice by the City to remove the same and in default of compliance with such notice, such facilities may be removed by order of the City Public Services Director and the cost of removal shall be borne and paid by the communications services provider upon demand.
- d. *Underground.* The placement or maintenance of all communications facilities shall be underground unless otherwise approved in writing by the City Public Services Director. Communications facilities shall be placed between the property line and the curb line of all streets and avenues and shall not be within the roadway or the roadway recovery area unless specifically approved in writing by the City Public Services Director. All communications facilities shall have consistent alignment parallel with the edge of pavement, a 36-inch depth of cover for and shall have two feet of horizontal clearance from other underground utilities and their appurtenances. Where approved by the City Public Services Director, facilities to be placed in the street shall be laid according to the permanent grade of the street and at a depth below the surface of the permanent grade as each is determined by the City Public Services Director.
- e. *Above-ground approval.* The placement or maintenance of facilities above-ground, including new utility poles and aerial wires, is subject to written approval by the City Public Services Director. Attachment to any utility pole or other above-ground structure must be pursuant to a valid and effective pole attachment agreement or similar instrument. Location on any utility pole or other above-ground structure shall not be considered a vested interest of the communications services provider or wireless infrastructure provider and such utility poles or structures, if owned by the communications services provider or wireless infrastructure provider, shall be removed or modified by the communications services provider or wireless infrastructure provider at its own

expense whenever the City or other governmental authority determines that the public convenience would be enhanced thereby. The communications services provider or wireless infrastructure provider shall, at such time as the electric utility facilities or other communications facilities are placed underground or are required by the City to be placed underground, concurrently place its communications facilities underground without cost to the City.

f. *New utility poles or above-ground structures.* The placing of any new utility pole or other above-ground structure to support communications facilities is subject to the approval of the City Public Services Director and shall be done under the supervision of the City Public Services Director or designee. No such utility pole or other above-ground structure shall be placed in any gutter or drainage area and must be behind the curb to avoid damage to any sidewalk. In areas of the City where either electric utility wires or other communications facilities are above ground and such facilities are moved, either voluntarily or at the direction of the City, to a new utility pole or other above-ground structure, the communications services provider or wireless infrastructure provider shall likewise move all its above-ground facilities on such utility poles or structures to such new utility pole or structure within 30 days after receipt of written notice from either the City or the owner of the new utility pole or structure, without cost to the City. New utility poles installed by wireless infrastructure providers shall also be subject to and may avail themselves of the requirements and process set forth in section 39-8(b)(4) hereof. When the communications services provider is not immediately available or is unable to provide the necessary immediate repairs to any communications facility that is damaged or malfunctioning, or has caused a sunken area or other condition and, in the City Public Services Director's sole discretion, is deemed a threat to public safety, then the City, when apprised of such an emergency, shall have the right to remove, make repairs to or eliminate same with the total cost being charged to and paid for by the communications services provider upon demand.

g. *Placement and maintenance standards.* The placement or maintenance of communications facilities in the public rights-of-way shall be performed in accordance with standards and requirements of the following, as is applicable and as each is in force at the time of the respective placement or maintenance of a communications system or facility:

1. The Florida Department of Transportation Utilities Accommodation Guide;
2. The State of Florida Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways;
3. The Trench Safety Act (F.S. ch. 553);
4. The Underground Facility Damage Prevention and Safety Act (F.S. ch. 556);
5. The National Electrical Code or the ANSI National Electrical Safety Code; and
6. The "Safety Rules for the Installation and Maintenance of Electrical Supply and Communication Lines" established by the Department of Commerce, Bureau of Standards of the United States.

h. *Sunshine State One-Call.* Every communications services provider shall utilize, and if permissible, maintain membership in the utility notification one call system administered by Sunshine State One-Call of Florida, Inc.

i.

Safety and minimal interference. All placement and maintenance of communication facilities in the public rights-of-way shall be subject to the City Code and other regulations of the City pertaining thereto, and shall be performed with the least possible interference with the use and appearance of the public rights-of-way and the rights and reasonable convenience of the property owners who abut or adjoin the public rights-of-way and in compliance with the rules and regulations of the Florida Department of Transportation. The communications services provider shall at all times employ reasonable care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage or injury or be a nuisance to the public. Suitable barricades, flags, lights, flares, or other devices shall be used at such times and places as are reasonably required for the safety of all members of the public. All placement and maintenance shall be done in such a manner as to minimize to the greatest extent any interference with the usual travel on such public rights-of-way. The use of trenchless technology (i.e., microtunneling and horizontal directional drilling techniques) for the installation of communications facilities in the public rights-of-way as well as joint trenching or the co-location of facilities in existing conduit is strongly encouraged, and should be employed wherever and whenever feasible.

- j. *Correction of harmful conditions.* If, at any time, the City or other authority of competent jurisdiction reasonably determines that any communications facility is, or has caused a condition that is, harmful to the health, safety or general welfare of any person, then the communications services provider shall, at its own expense, promptly correct or eliminate all such facilities and conditions. In an emergency, as determined by the City Public Services Director, when the communications services provider is not immediately available or is unable to provide the necessary immediate repairs to any communications facility that is damaged or malfunctioning, or has caused a sunken area or other condition and, in the City Public Services Director's sole discretion, is deemed a threat to public safety, then the City, when apprised of such an emergency, shall have the right to remove, make repairs to or eliminate same with the total cost being charged to and paid for by the communications services provider upon demand.
- k. *Remedy of hazardous conditions.* If, at any time, a condition exists that the City or other authority of competent jurisdiction reasonably determines is an emergency that is potentially hazardous or life threatening to any person or is a threat to the health or safety of the general public, and to remedy such condition the City or other authority of competent jurisdiction reasonably determines that a communications services provider must temporarily relocate or temporarily shut off service or transmissions through a specific facility, then the City, as an appropriate exercise of its police powers, may order the communications services provider to immediately perform such temporary relocation or shut off until the condition has been remedied, and to do so at its own expense and without liability to or recourse against the City. In such an emergency, when the communications services provider is not immediately available or is unable to provide the necessary immediate relocation or shut off of the specific communications facility, then the City shall have the right to perform, or cause to be performed, such temporary relocation or shut off until the condition has been remedied with the total cost being charged to and paid for by the communications services provider upon demand.
- l. *Interference with other facilities.* A communications services provider shall not, in violation of any applicable laws or regulatory standards, design, place or maintain its communications facilities in a manner that will interfere with the signals or facilities of any municipal or county police, fire or rescue department, the facilities of any public utility, or the communications facilities of another communications service provider, including any cable service provider.
- m. *Relocation or removal of facilities.* Except in cases of emergency, a communications services provider, at its own expense, shall:

1. Upon 30 days written notice, relocate or remove, as specified in said notice, its communications facility in the event the City finds that the particular facility is unreasonably interfering in some way with the convenient, safe or continuous use, or the maintenance, improvement, extension or expansion of any public rights-of-way. The City shall provide the communications services provider with a notice and order as provided for in F.S. § 337.404 of the Florida Statutes, or any subsequently enacted law of the State of Florida, in the event it charges the communications services provider for the cost and expense of relocating or removing such facility pursuant to this paragraph.
 2. Within a reasonable period of time from the date of written notice from the City, but not more than 120 days thereafter, relocate or remove, as specified in said notice, its communications facility in the event the City Public Services Director determines it necessary for the construction, completion, repair, relocation or maintenance of a City project, because the particular communications facility is interfering with or adversely affecting the proper operation of street light poles, traffic signals, or any communications system belonging to the City or an agency thereof or because the particular communications facility is interfering with the signals or facilities of the City Police Department, or any municipal public utility. In the event the City issues any such written notice to the communications services provider pursuant to this paragraph, and the communications services provider fails to cause the aforementioned relocation or removal as required herein, the City shall be entitled to relocate or remove such facilities without further notice to the communications services provider and the total cost and expense shall be charged to the communications services provider upon demand.
- n. *Temporary raising or lowering of facilities.* A communications services provider, upon request of any person holding a validly issued building or moving permit from the City to temporarily encroach on or perform moving operations in or across the public rights-of-way, shall temporarily raise or lower its communications facilities to accommodate such temporary encroachment or move. The expense of such temporary raising or lowering of facilities shall be paid by the person requesting the same, and the communications services provider shall have the authority to require such payment in advance. The communications services provider shall be given not less than 20 days advance written notice from such person to arrange for the temporary relocation, which notice must detail the time and location of the permitted activity, and not less than 24 hours advance notice from the permit holder advising of the actual operation. The City is not subject to, nor shall it be liable for, any such expense or notice requirement for the moving of houses or structures performed by the City or its contractors.
- o. *Coordination.* In an effort to minimize the adverse impact on the public rights-of-way and other municipal improvements, a communications services provider may be required by the City Public Services Director to coordinate the placement or maintenance of its facilities with any work, construction, installation in or repairs of the subject public rights-of-way or other facilities therein that is occurring or is scheduled to occur within a reasonable time from application for a communications facility permit as determined by the City Public Services Director. Every communications services providers shall make space in its trench and/or conduit within the public rights-of-way available to other providers consistent with the federal requirements of 47 U.S.C. Section 224. Every communications services provider shall utilize existing conduits, pathways and other facilities whenever possible, and shall not place or maintain any new, different, or additional poles, conduits, pathways or other facilities, whether in the public rights-of-way or on privately-owned property, until written approval is obtained from the City or other appropriate governmental authority, and, where applicable, from the private property owner.
- p.

Co-location and joint use. A communications services provider, in an effort to minimize the adverse impact on the useful life of the public rights-of-way, shall, whenever possible, enter into joint use agreements with the City and other parties who have registered with, or who are expressly authorized by, the City to use its public rights-of-way; provided that the terms of such agreements are satisfactory to the communications services provider. Nothing herein contained shall mandate that the communications services provider enter into joint use agreements with parties other than the City or an agency of the City. However, prior to placement of any new or additional underground conduit in the public rights-of-way, a communications services provider is required to certify in writing to the City Public Services Director that it has made appropriate inquiry to all existing utilities and other entities possessing a right to occupy the public rights-of-way as to the availability of existing or planned conduit that the particular communications services provider could reasonably utilize to meet its needs, and that no such conduit is available or planned at a reasonable cost by any other entity on the time schedule reasonably needed. The communications services provider shall not be permitted to perform any placement or maintenance of facilities in those segments of the public rights-of-way where there exists vacant or available conduit, dark fiber or surplus fiber owned by the City, an agency of the City or another governmental body which is or, through a reasonable amount of effort and expense, can be made compatible with the communications services provider's system or network. Under such circumstances the communications services provider shall have the opportunity to enter into a use agreement or lease arrangement with the City or an agency of the City at or below reasonable and prevailing market rates for such conduit or fiber or, where owned by another governmental body, shall, in good faith, first exhaust all means of obtaining use of such conduit or fiber before applying for a communications facility permit from the City.

- q. *Maintenance-of-traffic.* In the event that placement or maintenance of communications facilities conducted by the communications services provider requires streets or traffic lanes to be closed or obstructed, the communications services Provider must, pursuant to the requirements of existing or subsequently enacted City ordinances, obtain all necessary permits from City, and shall obtain approval of its maintenance-of-traffic plan from the City Public Services Director.
- r. *Restoration of the public rights-of-way.* After completion of any placement or maintenance of a communications facility in the public rights-of-way or each phase thereof, the communications services provider shall, at its own expense and in a manner reasonably acceptable to the City, restore without delay the public rights-of-way so disturbed to its original condition immediately prior to the placement or maintenance work. If the communications services provider fails to make such restoration within 30 days following the completion of such placement or maintenance, the City may perform such restoration and charge the costs of the restoration to the communications services provider in accordance with F.S. § 337.402, as it may be amended. The communications services provider shall, to the satisfaction of the City Public Services Director, maintain and correct any restorations made pursuant hereto for a period of 12 months following the date of its completion. Failure to comply with this subsection shall be deemed sufficient grounds for denial of any future communications facility permits for the placement or maintenance of communications facilities.
- s. *Disruption or destruction of other facilities or property.* A communications services provider shall not knowingly place or maintain any facility in a manner that shall in any way disrupt, displace, damage or destroy any sewer line, gas line, water main, pipe, conduit, wires, fiber-optics or other facilities, or property belonging to the City or any other person lawfully occupying the public rights-of-way, without first obtaining the consent of the City. The communications services provider shall bear all responsibility and costs for any such conduct where City consent has not been obtained and shall pay such costs upon demand.

t. *Preservation of public rights-of-way for planned public projects.* To the extent not otherwise prohibited by state or federal law, the City shall have the power to prohibit or limit the placement of new or additional communications facilities within a particular area of public rights-of-way and may consider, among other things and without limitation, the sufficiency of space to accommodate all of the present communications facilities and pending applications to place and maintain facilities in that area of the public rights-of-way, the sufficiency of space to accommodate City announced plans for public improvements or projects that the City determines are in the public interest, the impact on traffic and traffic safety, and the impact upon existing facilities in the public rights-of-way.

(3) *General conditions on the utilization of the public rights-of-way and the placement or maintenance of communications facilities.*

- a. *City not liable.* Except for acts of willful misconduct or gross negligence and to the extent permitted by applicable law, neither the City nor its officials, boards, commissions, consultants, agents, employees or independent contractors shall have any liability to the communications services provider for any claims for any damages, costs, expenses or losses resulting from the City's breakage, removal, alteration or relocation of any facilities of any communications services provider which arose out of or in connection with any emergency or disaster situation or was, in the sole discretion of the City Public Services Director, deemed necessary to facilitate any public works project, public improvement, alteration of a City structure, change in the grade or line of any public rights-of-way, or the elimination, abandonment or closure of any Public Rights-of-Way or was found by City Commission to be in the best interest of the health, safety or general welfare of the public; nor shall any charge be made by the communications services provider against the City for any damages, costs, expenses or losses related thereto.
- b. *No exemption from permits.* Nothing in this chapter shall exempt any communications services provider from obtaining communications facility permits for work done within the public rights-of-way.
- c. *Subject to police powers.* The rights of the communications services provider shall be subject to all lawful exercise of police power by the City, and to such other reasonable regulation of the public rights-of-way as the City shall hereafter by resolution or ordinance provide in the interest of the health, safety and general welfare of the public. Any inconsistency or ambiguity between the provisions of this chapter and any lawful exercise of the City's police power shall be resolved in favor of the latter.
- d. *City inspection.* The City shall have the right to make such inspections of a communications system or facilities placed or maintained in the public rights-of-way as it finds necessary to ensure compliance with this chapter. This chapter shall not be construed to create or hold the City responsible or liable for any damage to persons or property by reason of any inspection by the City of the placement or maintenance of a communications system or facility as authorized herein or failure by the City to so inspect.
- e. *Access to manholes.* The City, in the proper exercise of its municipal powers and duties with respect to the public rights-of-way, shall have access at any time to all hand holes and manholes in the City belonging to a communications services provider. Before accessing any manhole, the City will make a reasonable good faith effort to provide the communications services provider prior notice to afford an opportunity to have trained personnel present, unless determined by the City to be an emergency situation.
- f.

Compatibility, capacity and interference issues. To properly manage and control the use of the public rights-of-way, and to protect the health, safety and general welfare of the public, the City, in its legislative and regulatory role, shall be the final authority on permitting a communications system or facility to be placed in the public rights-of-way and shall exercise such authority in a non-discriminatory manner. It shall be in the sole discretion of the City Attorney whether an easement is compatible with or allows for its use by a communications system or facility. It shall be in the sole discretion of the City Public Services Director, based on the nature, design, size, configuration or proposed location of any communications system or facility, whether there is sufficient capacity in a particular section of the public rights-of-way or whether such system or facility will interfere with the facilities or equipment of any municipality, county, public utility, cable operator, or other communications service provider.

- g. *No warranty of fitness or suitability.* The City makes no express or implied warranties or representations regarding the fitness, suitability, or availability of the public rights-of-way for any communications system or facility or its right to authorize the placement or maintenance of any communications system or facility in the public rights-of-way. Any performance of work, costs incurred or services rendered by a communications services provider shall be at such provider's sole risk. Nothing in this chapter shall affect the City's authority to acquire or add public rights-of-way, or to vacate or abandon public rights-of-way as provided for in the City Code or applicable law. The City makes no express or implied warranties or representations regarding the availability of any acquired, added, vacated or abandoned public rights-of-way for a communications system or facility.
- h. *Annexations.* Upon the annexation of any territory to the City of Alachua, the provisions of this chapter and the rules, regulations and general conditions contained herein shall extend to the territories so annexed; and all facilities placed, maintained, owned or operated by any communications services provider extending into or already located in the public rights-of-way of the territory so annexed, shall thereafter be subject to all terms hereof, as the same may be amended from time to time.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-7. - Duty to notify City of resellers; conditional use of public rights-of-way.

Within 30 days of any registered communications services provider using its facilities to carry the communication services of any reseller, such communications services provider shall notify the City of the name and address of such reseller. A reseller's lease, interconnection or other use of facilities belonging to a communications services provider duly registered in accordance with section 39-4 and properly permitted to place or maintain its facilities in the public rights-of-way, does not, and shall not, afford such reseller any right, claim or cause of action to impede the lawful exercise of the City's rights or police powers, including, but not limited to, requiring the registered communications services provider to remove such facilities from the public rights-of-way.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-8. - Wireless facilities.

- (a) *Generally.* The placement of telecommunication towers and antennae anywhere in the corporate limits of the City shall in all cases be subject to the City's zoning and land use regulations. Where placement of a wireless antenna in the public rights-of-way has been approved by the City and to the extent not inconsistent with any City zoning and land use regulations, a wireless antenna attached to a permitted and legally maintained vertical structure in the public rights-of-way, such as a light pole or utility pole in the public right-of-way shall, unless otherwise agreed to by the City in writing:
- (1) Not extend more than ten feet above the highest point of the light pole or utility pole;
 - (2) Not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation or law;
 - (3) Comply with any applicable Federal Communications Commission Emissions Standards;
 - (4) Comply with any applicable local building codes in terms of design, construction and installation; and
 - (5) Not contain any commercial advertising thereon.
- (b) *Small wireless facilities in public rights-of way.* The City hereby adopts the following rules that will apply to the collocation of small wireless facilities in public rights-of-way for all applications filed on or after December 10, 2018:
- (1) *General conditions.* Applicants seeking permission to collocate or install small wireless facilities within public rights-of-way shall comply with the registration, insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, City liability, and City warranties provisions contained in this chapter; provided, however, that the review timeframes and denial criteria of this subsection 39-8(b) shall control.
 - (2) *Filing, review, and processing of applications.* The City shall accept applications for permits and shall process and issue permits for the collocation of small wireless facilities in public rights-of-way subject to the following requirements:
 - a. The applicant shall as a part of its application provide information necessary to demonstrate the applicant's compliance with the applicable provisions of this chapter for the placement of small wireless facilities in the locations identified in the application, and shall bear the burden of demonstrating compliance therewith.
 - b. Within 14 days after the date of filing the application, the City may request that the proposed location of a small wireless facility be moved to another location in the right-of-way and placed on an alternative City utility pole or may place a new utility pole. The City and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the City of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application. If an agreement is not reached, the applicant must notify the City of such nonagreement and the City must grant or deny the original application within 90 days after the date the application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

c.

The City hereby limits the height of a small wireless facility to ten feet above the utility pole upon which the small wireless facility is to be collocated. Unless waived by the City, the height for a new utility pole is limited to the tallest existing utility pole as of December 10, 2018, located in the same public right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet, the City shall limit the height of the utility pole to 50 feet.

- d. Within 14 days after receiving an application, the City must determine and notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the City must specifically identify the missing information. An application is deemed complete if the City fails to provide notification to the applicant within 14 days.
- e. The City shall process all applications on a nondiscriminatory basis. If the City fails to approve or deny a complete application within 60 days after receipt of the application, the application is deemed approved. If the City does not use the 30-day negotiation period provided herein. The parties may mutually agree to extend the 60-day application review period. The City shall grant or deny the application at the end of the extended period.
- f. A permit issued pursuant to an approved application shall remain effective for one year unless extended by the City.
- g. The City shall notify the applicant of approval or denial by electronic mail. The City shall approve a complete application unless it does not meet the applicable provisions of this chapter.
- h. If the application is denied, the City shall specify in writing the basis for denial, including the specific code provisions on which the denial is based, and shall send the documentation to the applicant by electronic mail on the day the City denies the application.
- i. The applicant may cure the deficiencies identified by the City and resubmit the application within 30 days after notice of the denial is sent to the applicant. Failure by the applicant to timely resubmit the application shall result in a final denial of the application. The City shall approve or deny a timely filed revised application within 30 days after receipt or the application is deemed approved. Any subsequent review shall be limited to the deficiencies cited in the denial.
- j. An applicant seeking to collocate small wireless Facilities within the City's boundaries may, at the applicant's discretion, file a consolidated application with the City and receive a single permit for the collocation of up to ten small wireless facilities. If the application includes multiple small wireless facilities, the City may separately address small wireless facility collocations for which incomplete information has been received or which are denied.
- k. The City may deny a proposed collocation of a small wireless facility in the public rights-of-way if the proposed collocation:
 1. Materially interferes with the safe operation of traffic control equipment.
 2. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.
 3. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
 4. Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.
 5. Fails to comply with applicable codes and the applicable provisions of this chapter.
- I.

Notwithstanding anything to the contrary contained herein, the City may reserve space on City utility poles for future public safety uses. If replacement of a City utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to the make-ready provisions of this chapter and the replaced pole shall accommodate the future public safety use.

- m. A structure on a utility pole granted a permit and installed pursuant to this subsection 39-8(b) shall comply with F.S. ch. 333, and federal regulations pertaining to airport airspace protections.
- n. The City does not require approval or fees for: (i) routine maintenance, (ii) replacement of existing wireless facilities with substantially similar wireless facilities, or (iii) installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliances with applicable codes by or for a communications services provider authorized to occupy the public rights-of-way and who is remitting taxes under F.S. ch. 202.

(3) *Collocation of small wireless facilities on City utility poles.* Collocation of small wireless facilities on City utility poles is subject to the following requirements:

- a. The City shall not enter into an exclusive arrangement with any person for the right to attach equipment to City utility poles.
- b. The rates and fees for collocations on City utility poles must be nondiscriminatory, regardless of the services provided by the collocating person.
- c. The City hereby levies, establishes, and sets an annual rate that shall be paid by all those applicants who file an application to collocate small wireless facilities on City utility poles in the amount of \$150.00 per pole per year. The initial payment shall be made as a condition of the granting of the permit, with remaining annual payments to be made in all subsequent years on the same date.
- d. Agreements between the City and wireless providers that are in effect on December 10, 2018, and that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on City utility poles, remain in effect, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and terms established under this subsection for small wireless facilities and utility poles that are the subject of an application submitted after the rates, fees, and terms become effective.
- e. For a City utility pole that supports an aerial facility used to provide communications services or electric service by another, the parties shall comply with the process for make-ready work under 47 U.S.C. Section 224 and implementing regulations. The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested collocation must include pole replacement if necessary.
- f. For City utility pole that does not support an aerial facility used to provide communications services or electric service by another, the City shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, the City may require the Applicant seeking to collocate a Small Wireless Facility to provide a make-ready estimate at the Applicant's expense for the work necessary to support the Small Wireless Facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of

a utility pole that is substantially similar in color and composition. The City may not condition or restrict the manner in which the Applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall remain the property of the City.

g. The City may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to communications services providers other than wireless services providers for similar work and may not include any consultant fee or expense.

(4) *Placement of utility poles by wireless infrastructure providers in the public rights-of-way in support of collocation of small wireless facilities.* A wireless infrastructure provider may apply to the City to place utility poles in the public rights-of-way to support the collocation of small wireless facilities. The application must include an attestation that small wireless facilities will be collocated on the utility pole and will be used by a wireless services provider to provide service within nine months after the date the application is approved by the City. The City shall accept and process the application in accordance with: (i) the applicable timeframes contained in subsection 39-8(b)(2), and (ii) any applicable codes and other local codes governing the placement of utility poles in the public rights-of-way, including but not limited to the provisions of section 39-6, provisions applicable to telecommunications towers set forth in section 4.3.2I of the City of Alachua's Land Development Regulations, and applicable historic preservation provisions and requirements set forth in the City Code, as amended from time to time.

(5) *Application and enforcement of historic preservation zoning regulations.* Consistent with preservation of local zoning authority under 47 U.S.C. Section 332(c)(7), the requirements for facility modifications under 47 U.S.C. Section 1455(a), and the National Historic Preservation Act of 1966, as amended, this subsection 93-08(b) is subject to the provisions of Chapter 38, City Code, Historic Preservation.

(6) *Prohibited collocations, attachments, installations, and services not authorized by subsection 39-8(b).* This subsection 39-8(b) does not authorize, and the City hereby prohibits, the following:

- a. This subsection 39-8(b) does not authorize a person to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned wireless support structure, or other private property without the consent of the property owner.
- b. The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this subsection 39-8(b) does not authorize the provision of any voice, data, or video services or the installation, placement, maintenance, or operation of any communications facilities other than small wireless facilities in the public right-of-way.
- c. This subsection 39-8(b) does not affect provisions relating to pass-through providers contained in this chapter and contained in F.S. § 337.401(6).
- d. This subsection 39-8(b) does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities, provided that once aerial facilities are converted to underground facilities, any such collocation or construction

shall be only as provided by the City's underground utilities ordinance.

- e. This subsection 39-8(b) does not authorize a person to collocate small wireless facilities or micro wireless facilities on a City utility pole or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association. This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-9. - Revocation or suspension of communications facility permits.

Subject to section 39-11, the City may revoke any communications facilities permit currently issued to a communications services provider for work in the public rights-of-way or suspend the issuance of communications facilities permits in the future to a communications services provider for, in addition to any other circumstances provided for in this chapter, one or more of the following reasons:

- (1) A violation of permit conditions, including conditions set forth in the permit, this chapter, and other applicable codes or regulations governing the placement or maintenance of communications facilities in the public rights-of-way;
- (2) A misrepresentation or fraud made or committed on the part of the communications services provider in the registration process or in the application for a communications facilities permit;
- (3) The failure to properly renew the registration or the ineffectiveness of registration; or
- (4) The failure to relocate or remove communications facilities as may be required by the City pursuant to this chapter.

The City Public Services Director shall provide notice and an opportunity to cure any violation of subsections (1) through (4) above, each of which shall be reasonable under the circumstances.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-10. - Involuntary termination of registration.

- (a) The City may terminate a registration if:
 - (1) A federal or state authority suspends, denies, or revokes a communications services provider's certification or license to provide communications services;
 - (2) The communications services provider's placement or maintenance of a communications facility in the public rights-of-way presents an extraordinary danger to the general public or other users of the public rights-of-way and the communications services provider fails to remedy the danger promptly after receipt of written notice;
 - (3)

The communications services provider ceases to use all of its communications facilities in the public rights-of-way and has not complied with section 39-21 herein; or

- (4) The communications services provider fails to comply with any of the rules, regulations or general conditions set forth in section 39-6 herein.
- (b) Prior to termination of a registration, the communications services provider shall be notified by the City Public Services Director with a written notice setting forth all matters pertinent to the proposed termination, including which of subsections (1) through (4) above is applicable as the reason therefore. The communications services provider shall have 30 days after receipt of such notice within which to eliminate the reason or within which to present a plan, satisfactory to the City Public Services Director, to accomplish the same. If not eliminated or if the plan presented is rejected, the City Public Services Director shall provide written notice of such rejection to the communications services provider and a final determination to terminate registration. A final determination to terminate registration may be appealed in accordance with the procedures set forth in section 39-11.
- (c) In the event of termination, following any appeal period, the communications services provider formerly registered shall: (1) notify the City of the assumption or anticipated assumption by another registrant of ownership of the communications services provider's facilities in public rights-of-way, or (2) provide the City with an acceptable plan for disposition of its communications facilities in the public rights-of-way. If a communications services provider fails to comply with this subsection (c), which determination of non-compliance is subject to appeal as provided in section 39-11, the City may exercise any remedies or rights it has at law or in equity, including but not limited to taking possession of the facilities where another person has not assumed the ownership or physical control of the facilities or requiring the communications services provider within 90 days of the termination, or such longer period as may be mutually agreed to between the City and the communications services provider, to remove some or all of the communications facilities from the public rights-of-way and restore the public rights-of-way to their original condition prior to such removal.
- (d) In any event, a communications services provider whose registration has been terminated shall take such steps as are necessary to render safe every portion of the communications facilities remaining in the public rights-of-way.
- (e) In the event of termination of a registration, this section does not authorize the City to cause the removal of communications facilities used to provide another service for which the communications services provider or another person who owns or exercises physical control over the communications facilities holds a valid certification or license with the governing federal or state agency, if required for provision of such service, and who is registered with the City, if required.
- (f) The City's right to terminate a registration shall be in addition to all other rights of the City, whether reserved in this chapter, or authorized by other law, and no action, proceeding or exercise of the right to terminate registration will affect or preclude any other right the City may have.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-11. - Appeals.

Final written determinations by the Public Services Director denying an initial registration; denying an application for renewal of a registration; terminating a registration; or denying, revoking or suspending any communications facilities permit are subject to appeal. A notice of appeal of such decision may be filed with the City Manager within 30 days of the date of the final, written decision to be appealed. The notice of appeal shall include the appellant's argument in opposition to the decision, cite to all written authority in support of appellant's position and attach copies of all documents being relied upon by the appellant. The information contained in the notice of appeal and all

attachments thereto shall make up the entire record for the appellate process and no information, documents, or argument outside of the notice of appeal may be introduced later in the appellate process. The City Manager shall have 30 days from the date the appeal is filed to review the matter and render a written decision to uphold or reverse the final decision made by the Public Services Director. If the City Manager upholds the final decision of the Public Services Director, the appellant may file a notice of appeal with the City Clerk, City Manager in his or her capacity as City Clerk, within 30 days of the date of the written decision of the City Manager. The City Clerk shall set the matter for hearing before the City Commission at any regular meeting of City Commission scheduled within 45 days of the date that the notice of appeal is filed with the City Clerk, unless waived by the communications services provider. A ruling may be made at the hearing or at the next regularly scheduled City Commission meeting and the communications services provider shall be notified of the decision in writing within 30 days thereof. Where a notice of appeal to the City Manager or the City Clerk is not timely filed as provided herein, such right to appeal shall be waived. Upon correction by the communications services provider of the circumstances that gave rise to a suspension or denial of a communications facilities permit, the suspension or denial shall be lifted (the same does not apply to the revocation of a communications facilities permit).

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-12. - Fees applicable to those not subject to communications services tax.

While the Florida Legislature has prohibited municipalities from requiring providers of communications services who have registered with the Florida Department of Revenue from having to enter into franchise agreements or license arrangements as a condition to placing or maintaining communications facilities in the public rights-of-way, the City expressly reserves the right to require the payment of consideration or regulatory fees by persons using or occupying the public rights-of-way in other capacities. The City reserves the right to require such payments based on the type of user and to the extent as follows:

- (1) *Dealer.* Except as provided in subsection 39-6(2)p., a communications services provider who meets the definition of dealer as set forth in this chapter and who has registered in accordance with section 39-4 is not required to enter into a franchise agreement or license arrangement with the City as a condition to placing or maintaining communications facilities in the public rights-of-way, nor is a dealer required to make payment of any franchise fees, license fees or other user fees to the City as consideration for the use or occupancy of the public rights-of-way for the provision of communication services.
- (2) *Pass-through provider and pass through facilities.* A communications services provider who meets the definition of pass-through provider as set forth in this chapter and who is not subject to the City of Alachua's Local Communications Services Tax imposed pursuant to F.S. §§ 202.19 and 202.20, Florida Statutes shall pay the City the maximum annual amount allowed under F.S. § 337.401(6)(b), as amended. For purposes of calculating payments hereunder, each separate pole or tower installed or maintained by a pass-through provider for purposes of supporting antennas for other over-the-air radio transmission or reception equipment in the public rights-of-way shall comprise a separate communications facility subject to assessment of a separate permit fee in the amount of \$500.00 per linear mile, or portion thereof, up to the maximum amount allowed under F.S. § 337.401(6)(b), whichever is higher. The annual amount referred to above shall be due and payable on October 1st of every year beginning on October 1, 2019. Fees not paid within ten days after the due date shall bear interest at the rate of one percent per month from the date due until paid. The acceptance of any payment required hereunder by the City shall not be construed as an acknowledgment that the amount paid is the correct amount due, nor shall such acceptance of payment be construed as a release of any claim which the City may have for additional sums due and payable or authorization to install any facilities in the public rights-of-way.

- (3) *Other persons.* All other persons, except government, are required to pay the City, as consideration for the use or occupancy of the public rights-of-way for the placement or maintenance of communications facilities, an amount based on and in accordance with section 39-12(2) of the City Code.
- (4) *Government.* A government is not required to pay the City consideration for the use or occupancy of the public rights-of-way for the placement or maintenance of communications facilities, unless such facilities are being used by such government or a communications services provider, including resellers, to offer or provide communication services other than for such government's internal non-commercial use, in which event the government, where not subject to the City of Alachua Local Communications Services Tax imposed pursuant to F.S. §§ 202.19 and 202.20, is required to pay the City, as consideration for the use or occupancy of the public rights-of-way by or through its facilities placed therein after October 1, 2019, an amount based on and in accordance with section 39-12(2) of the City Code or such other amount or rate of compensation as mutually agreed to in writing by the government and the City.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-13. - Existing communications facility.

A communications services provider with a facility in the public rights-of-way as of the effective date of this chapter has until June 1, 2019 to comply with the provisions of this chapter, including, but not limited to, registration, or be in violation thereof.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-14. - Insurance.

- (a) At all times during the use or occupancy of the public rights-of-way, including any time during placement or maintenance of communications facilities, the communications services provider shall obtain, pay all premiums for, and maintain satisfactory to the City the types of insurance policies and coverage limits described in this section. Nothing contained in this chapter shall limit a communications services provider's liability to the City to the limits of insurance certified or carried.
 - (1) Commercial general liability insurance valid in the State of Florida, including contractual liability and products completed operations liability coverage on an occurrence basis, which policy limit shall be in an amount not less than \$1,000,000.00 per occurrence, combined single limit, for bodily injury, personal injury or death, or property damage and in an amount not less than \$2,000,000.00 policy aggregate for each personal injury liability, broad form property damage (without XCU exclusions), contractual liability and products-completed operations liability.
 - (2) Business automobile liability insurance valid in the State of Florida which policy limit shall be in an amount not less than \$1,000,000.00 combined single limit, including bodily injury and property damage covering owned, leased, hired and non-owner vehicles.
 - (3) Workers' compensation valid in the State of Florida which policy limit shall be in an amount not less than the statutory limit for workers' compensation.
 - (4) Employer's liability insurance valid in the State of Florida which policy limit shall be in an amount not less than \$1,000,000.00 each accident for employer's liability.

- (b) All insurance providers used shall be admitted and duly authorized to do business in the State of Florida and shall have assigned by A. M. Best Company a minimum Financial Strength Rating of "A" and a minimum Financial Size Category of "IX" (i.e., a size of \$250,000,000.00 to \$500,000,000.00 based on capital, surplus, and conditional reserve funds). Insurance policies and certificates issued by non-admitted insurance companies are not acceptable. All liability policies shall name the City, its City Commissioners, officers, and employees as additional insureds with respect to any covered liability arising out of the placement or maintenance of communications facilities in the public rights-of-way or other activities under this chapter. Each communications services provider shall furnish annually to the City certificates showing proof of all required insurance coverage. All liability coverage must be in occurrence form and in accordance with the limits specified. Claims made policies are not acceptable. No insurance policy shall be canceled, nor shall the occurrence or aggregate limits set forth herein be reduced, until the City has received at least 30 days' advance written notice by registered, certified or regular mail or facsimile of any cancellation, intent not to renew or reduction in policy coverage. Each communications services provider shall be responsible for notifying the City of such cancellation, intent not to renew or reduction in coverage. All certificate(s) of insurance, including all endorsements and riders, evidencing insurance coverage shall be submitted to the City within 30 days after the date of registration with the City in order for a communications services provider to obtain communications facilities permits required for construction in the public rights-of-way. Each communications services provider shall, in the event of any such notice described above, obtain, pay all premiums for, and file with the City, written evidence of the issuance of replacement policies within 30 days following receipt by the City or the communications services provider of such notice.
- (c) The certificate(s) of insurance forms must be properly executed by the authorized representative of the insurance provider and must include all endorsements, riders and notices. Each communications services provider shall file and maintain with the City on an annual basis the required certificate(s) of insurance. The certificate(s) of insurance must indicate the following:
- (1) The policy number; name of insurance company; name and address of the agent or authorized representative; name and address of insured; that the policy coverage "pertains the requirements of section 39-14 of the City of Alachua Communications Facilities Public Right-of-Way Ordinance;" policy expiration date; and specific coverage amounts; and
 - (2) Any applicable deductibles or self-insured retentions;
 - (3) That the City, its council members, officers and employees are additional insureds;
 - (4) That the City shall receive 30 days' advance written notice of cancellation, intent not to renew or reduction in coverage; and
 - (5) That the commercial general liability insurance policy is primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have; and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance.
- (d) Under extraordinary circumstances a communications services provider may satisfy the insurance requirements of this chapter by providing documentation of self-insurance that, in the sole discretion of the risk management, demonstrates incontrovertibly the adequacy to defend and cover claims of any nature that might arise from the placement and maintenance of facilities in the public rights-of-way. The communications services provider must be authorized as a self-insurer by the Department of Insurance under the laws of the State of Florida.

Sec. 39-15. - Indemnification.

- (a) Except with respect to the willful misconduct, gross negligence of the City, a communications services provider, by act of registering with the City as such, shall be obligated, at its sole cost and expense, to defend, indemnify and hold harmless the City, its officials, commissioners, agents and employees from and against any and all claims, suits, causes of action, proceedings, liabilities and judgments for damages or equitable relief, and costs and expenses arising out of or in connection with the placement or maintenance of its communications facilities in the public rights-of-way by the communications services provider or its agent or hired contractor. This indemnification provision shall include, but not be limited to, such damages and penalties arising out of claims: (1) by any person whatsoever on account of: (i) bodily injury to a person or persons, (ii) death of a person or persons or (iii) property damage, where any of the foregoing is occasioned by the operations of the communications services provider, or alleged to have been so caused or occurred or (2) involving the communications services provider's violation of any easement or private property rights.
- (b) Nothing in this section shall prohibit the City from participating in the defense of any litigation by its own counsel if in the City's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict.
- (c) Indemnified costs and expenses shall include, but not be limited to, all out-of-pocket expenses and reasonable attorneys' fees in defending against any such claim, suit or proceeding, and shall also include the reasonable value of any services rendered by the City Attorney, his or her assistants or any consultants, agents and employees of the City. The City will attempt to notify the communications services provider, in writing, within a reasonable time of the City's receiving notice of any issue it determines may require indemnification.
- (d) Nothing contained in this subsection shall be construed or interpreted: (1) as denying the City, the communications services provider or any person any remedy or defense available to them under the laws of the State of Florida; or (2) as a waiver of sovereign immunity beyond the waiver provided in F.S. § 768.28, as it may be amended.
- (e) The indemnification requirements shall survive and be in effect after the termination or cancellation of a registration.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-16. - Construction bond.

- (a) Prior to issuance of any communications facilities permit where the type of work allowed under the permit will require restoration of the public rights-of-way, the communications services provider or the contractor performing such work on its behalf shall obtain, pay for and file with the City a construction bond in the form and content approved by the City Attorney. The construction bond shall serve to guarantee the timeliness and quality of the construction and restoration work and to secure, and enable the City to recover, all costs related to the restoration of the public rights-of-way in the event the communications services provider or its contractor fails to make such restoration to the City's satisfaction or causes damage to the public rights-of-way during construction. The construction bond must name the City as obligee and be in the face amount of \$15,000.00 conditioned upon the full and faithful completion of construction and restoration of the public rights-of-way to its original condition. Six months following completion and inspection of the restoration of the public rights-of-way satisfactory to the City Engineer,

the communications services provider or its contractor, as the case may be, may reduce the face amount of the construction bond to \$5,000.00 and, thereafter, may allow the bond to lapse in accordance with its terms. However, for any subsequent work in the public rights-of-way, the communications services provider or its contractor will be required to replenish any existing construction bond or provide a new construction bond in the face amount of \$15,000.00. The construction bond shall be in a form acceptable to the City Attorney and must be issued by a surety having a rating reasonably acceptable to the City Engineer and authorized by the Florida Department of Insurance to issue surety bonds in this state.

- (b) The construction bond must be issued as non-cancelable and be for a term of not less than 12 months. In the event the term of any construction bond expires, or is reasonably expected to expire, prior to the completion of construction, restoration and City inspection, the communications services provider, or the contractor acting on its behalf, shall immediately obtain, pay for, and file with the City a replacement bond.
- (c) The City's requirement of a construction bond is not in lieu of any additional bonds that may be required under this chapter or through the permitting process. The City's right to recover under the construction bond shall be in addition to all other rights of the City, whether reserved in this chapter, or authorized by other law, and no action, proceeding or exercise of a right with respect to the construction bond will affect or preclude any other right the City may have.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-17. - Performance bond.

- (a) Before any communications services provider is permitted to begin the placement or maintenance of an initial build, any substantial rebuild, upgrade or extension of its communications system, or when construction plans show that there would be at least 1,000 feet of open trenching in the public rights-of-way at any given time, the communications services provider is required to obtain, pay for, and file with the City a performance bond in the form and content approved by the City Attorney. The performance bond must name the City as Obligee and be in the face amount of \$250,000.00 conditioned upon the full and faithful compliance by the communications services provider with all requirements, duties and obligations imposed by the provisions of the City Communications Right-of-Way Utilization Ordinance during, and through completion of, the placement or maintenance project. The performance bond shall be in a form acceptable to the City Attorney and must be issued by a surety having a rating reasonably acceptable to the City Engineer and authorized by the Florida Department of Insurance to issue performance bonds in this state.
- (b) The performance bond must be issued as non-cancelable and be for a term consistent with the reasonably expected duration of the particular placement or maintenance project (including restoration and City inspection), but in no event less than 18 months. In the event the term of any performance bond expires, or is reasonably expected to expire, prior to the completion of such placement or maintenance project, including restoration and City inspection, the communications services provider shall immediately obtain, pay for, and file with the City a replacement bond.
- (c) The City's requirement of a performance bond is not in lieu of any additional bonds that may be required under this chapter or through the permitting process. The City's right to recover under the performance bond shall be in addition to all other rights of the City, whether reserved in this chapter, or authorized by other law, and no action, proceeding or exercise of a right with respect to the performance bond will affect or preclude any other right the City may have. Any proceeds

recovered under the performance bond may be used to reimburse the City for such additional expenses as may be incurred by the City as a result of the communications services provider's failure to comply with the responsibilities imposed by this chapter, including, but not limited to, attorney's fees and costs of any action or proceeding, and the cost of removal or abandonment of any property.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-18. - Security fund.

Every communications services provider shall make a \$25,000.00 cash deposit, or shall file with the City an irrevocable letter of credit or acceptable equivalent in the same amount, which shall serve, and be referred to, as the "Security Fund." The security fund shall be conditioned upon the full and faithful compliance with and performance by the communications services provider of all requirements, duties and obligations imposed by the provisions of the City of Alachua Communications Facilities Public Right-of-Way Ordinance at all times. The letter of credit shall be in a form (and issue by an institution acceptable) acceptable to the City Attorney. Should the City draw upon the security fund, it shall promptly notify the communications services provider, and the communications services provider shall promptly restore the cash deposit or letter of credit to the full amount. The security fund shall be maintained until the later of: (a) the effective date of transfer, sale or assignment by the communications services provider of all its facilities in the public rights-of-way, (b) twelve months after the removal or abandonment by the communications services provider of all of its facilities in the public rights-of-way, or (c) six months after the termination of registration, including any appeals undertaken pursuant to section 39-11 herein. Upon the later of these events the cash deposit will be returned without interest or the letter of credit may be cancelled. In the event a communications services provider fails to perform any requirement, duty or obligation imposed upon it by the provisions of this chapter, there shall be recoverable, jointly and severally from the security fund, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost of removal, relocation or abandonment of any facilities in public rights-of-way, plus a reasonable allowance for attorneys' fees, up to the full amount of the security fund.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-19. - Enforcement remedies.

- (a) No provision of this chapter shall be deemed to bar the right of the City to seek or obtain judicial relief from a violation of any provisions of this chapter, the registration provisions, or any rule, regulation or general condition provided for hereunder, whether administratively, judicially or both. Neither the existence of other remedies identified in this chapter nor the exercise thereof shall be deemed to bar or otherwise limit the right of the City to recover fines, penalties or monetary damages (except where liquidated damages are otherwise prescribed) for such violation by the communications services provider. The remedies available to the City shall be cumulative and in addition to any other remedies provided by law or equity. The laws of the State of Florida shall govern with respect to any proceeding in law or equity pertaining to the enforcement of this chapter or any cause of action arising out of or in connection herewith.
- (b) A communications services provider's failure to comply with provisions of this chapter shall constitute a City Code violation.
- (c)

In any proceeding before the City Commission where there exists an issue with respect to a communications services provider's performance of its obligations pursuant to this chapter, the communications services provider shall be given the opportunity to provide such information as it may have concerning its compliance with the terms and conditions of this chapter. The City may find a communications services provider that does not demonstrate compliance with the terms and conditions of this chapter in default and apply any appropriate remedy or remedies as authorized by this chapter. In determining which remedy is appropriate, the City Commission shall take into consideration the nature of the violation, the person bearing the impact of the violation, the nature of the remedy required in order to prevent further violations, and such other matters as the City Commission determines are appropriate to the public interest.

- (d) The City Public Services Director, or his/her designee, shall be responsible for administration and enforcement of this chapter, and is authorized to give any notice required herein or by law.
- (e) Failure of the City to enforce any requirements of this chapter shall not constitute a waiver of the City's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-20. - Abandonment of a communications facility.

- (a) Upon abandonment of any facility owned by a communications services provider in the public rights-of-way, the communications services provider shall notify the City within 60 days.
- (b) The City may direct the communications services provider, by written notice, to remove all or any portion of such abandoned communications facility at the communications services provider's sole expense.
- (c) If the communications services provider fails to remove all or any portion of an abandoned communications facility as directed by the City within the time period specified in the written notice, which time period must be reasonable under the circumstances, the City may perform such removal and charge the cost of the removal against the communications services provider which shall be paid upon demand.
- (d) In the event that the City does not direct the removal of the abandoned communications facility, the communications services provider, by its notice of abandonment to the City, shall be deemed to consent to the alteration or removal of all or any portion of such abandoned facility by the City or other person, provided that the cost of the alteration or removal is not borne by the communications services provider.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Sec. 39-21. - Reservation of rights.

The City hereby expressly reserves all of the following rights:

- (1) To exercise its municipal home rule powers, now or hereafter, to the fullest extent allowed by law with regard to the access, use and regulation of the public rights-of-way.

- (2) To amend this chapter as it shall find necessary in the lawful exercise of its municipal authority.
- (3) To adopt or enact by resolution or ordinance, in addition to the provisions contained herein and in any existing applicable ordinances, such additional reasonable regulations as City Commission finds necessary in the exercise of the City's police powers.
- (4) To exercise the power of eminent domain, consistent with applicable federal and state law, to acquire property that may include that property owned or leased by a communications services provider.
- (5) As and when deemed necessary by City Commission to be in the interest of the City or its residents, to abandon portions of the public rights-of-way within the proper exercise of its municipal authority and without notice to or the consent of any communications services provider. The City shall not be responsible for any costs, damages, loss or other expense to the communications services provider as a result of the City's abandonment of any public rights-of-way.
- (6) To place and maintain, and franchise or permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other types of facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in the public rights-of-way occupied by any communications services provider.
- (7) Without limitation, the right to alter, change, or cause to be changed, the grading, installation, relocation, or width of any public rights-of-way within the City limits and within said limits as the same may from time to time be altered.
- (8) To require a reseller to register in accordance with section 39-4 to the extent such reseller wants the right to place or maintain facilities in the public rights-of-way. Any person using or leasing facilities owned by a registered communications services provider is not, therefore, entitled to any rights to place or maintain communications facilities in the public rights-of-way, unless such person themselves registers with the City.

(Ord. No. 19-04, § 3(Exh. A), 12-10-2018)

Chapter 40 - WATERWAYS

Footnotes:

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State Law reference— *Municipal Home Rule Powers Act, F.S. ch. 166; Florida Vessel Safety Law, F.S. ch. 327; local watercraft ordinances, F.S. § 327.60.*

Sec. 40-1. - Buildings, etc., encroaching upon bottom width.

It shall be unlawful to place any wall or any structure or obstruction of any nature in any body of water that shall encroach in any manner upon the bottom width of the body of water.

(Code 1960, § 9-6; Code 1976, § 9-6)

Sec. 40-2. - Obstructing.

It shall be unlawful for any person to place any obstruction of any kind whatsoever in any body of water.

(Code 1960, § 9-7; Code 1976, § 9-7)

Subpart B - LAND DEVELOPMENT REGULATIONS*Footnotes:*

--- (1) ---

Editor's note— Printed herein are the City of Alachua Land Development Regulations, being Ordinance No. 06-11, § 1, adopted February 27, 2006. Subsequent 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. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings and catchlines has been used. Additions made for clarity are indicated by brackets.

State Law reference— Land development code required, F.S. § 163.3202(3).

Article 1 - GENERAL PROVISIONS**Sec. 1.1. - Title.**

These regulations shall be officially known as the "City of Alachua Land Development Regulations," and may be referred to as the "LDRs," or "these LDRs."

Sec. 1.2. - Authority.

1.2.1 *Generally.* The Alachua City Commission is authorized to adopt these LDRs in accordance with Article VIII, Section 2(b), Florida Constitution, the Community Planning Act (F.S. § 163.2511 et seq.), F.S. § 166.021, and all other relevant laws of the State of Florida.

1.2.2 *Reference to Florida General Statutes and F.A.C.* Whenever any provision of these LDRs refers to or cites a section of the Florida Statutes (F.S.) or the Florida Administrative Code (F.A.C.), and that section is later amended or superseded, these LDRs shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Sec. 1.3. - General purpose.

The City Commission, for the purpose of promoting the health, safety, and general welfare of the public and implementing the City's Comprehensive Plan, authorizes that these articles (Articles 1—10) are adopted as the Land Development Regulations of the City, together with the accompanying Official Zoning Atlas of the City that is on file in the LDR Administrator's office. These LDRs are designed to:

- (A) Implement the Comprehensive Plan, and ensure that all approved development is consistent with the Comprehensive Plan;
- (B) Preserve and enhance the present advantages that exist in the City;
- (C) Encourage the most appropriate use of land, water, and natural resources, consistent with the public interest;
- (D) Overcome present handicaps, and deal effectively with future problems that may result from the use and development of land;
- (E) Facilitate the adequate and efficient provision of transportation, water, sewage, drainage, solid waste and parks;
- (F) Conserve, develop, utilize and protect natural resources;
- (G) Protect human, environmental, social and economic resources;
- (H) Maintain, through orderly growth and development, the community character and stability of present and future land uses and development in the City;
- (I) Establish comprehensive and consistent standards and procedures for the review and approval of all proposed development of land; and
- (J) Ensure that the development review, approval, and permitting processes be efficient, effective, and equitable, in terms of consistency with established regulations and procedures, respect for the rights of landowners, and consideration of the interests of the citizens of the City.

Sec. 1.4. - Applicability and jurisdiction.

- 1.4.1 *Generally.* The provisions of these LDRs shall apply to the development of all land within the corporate limits of the City of Alachua, unless it is expressly exempted by a specific section or subsection of these LDRs.
- 1.4.2 *Application to governmental units.* Unless exempted in accordance with Subsection 1.4.5 of this section, Exemptions, or as stated herein, the provisions of these LDRs shall apply to:
 - (A) *City.* Development of land owned or held in tenancy by the City or its agencies and departments.
 - (B) *County.* Development of land owned or held in tenancy by Alachua County, Florida, or its agencies and departments.
 - (C) *School Board.* To the full extent permitted by law, development of land owned or held in tenancy by the School Board of Alachua County, Florida, or its agencies and departments.
 - (D) *State.* To the full extent permitted by law, development of land owned or held in tenancy by the State of Florida or its agencies and departments.
 - (E) *Federal government.* To the full extent permitted by law, development of land owned or held in tenancy by the government of the United States, its agencies, departments, or corporate services.

(F) *Other public entities.* To the full extent permitted by law, development of land owned or held in tenancy by any other public or quasi-public entity.

1.4.3 *Appropriate permit required.* No development shall occur within the corporate limits of the City without the appropriate permit for that purpose as set forth in Article 2, Administration.

1.4.4 *No development until compliance with these LDRs.* No development shall occur within the corporate limits of the City without full compliance with the provisions of these LDRs and all other applicable City, State, and Federal regulations.

1.4.5 *Exemptions.*

(A) *Acquisition of interests in land by government and construction of public infrastructure for public purpose.*

(1) The provisions of these LDRs shall not require subdivision of land in accordance with Section 2.4.10 as a result of actions taken by the City of Alachua, Alachua County, the School Board of Alachua County, or the State of Florida to acquire land or interest in land for public use, right-of-way (ROW), or easements.

(2) The permits as set forth in Article 2, Administration, shall not be required for the following public infrastructure projects:

(a) Road construction/reconstruction projects, water/wastewater line installations, and other similar projects, undertaken by the City of Alachua, Alachua County, or the State of Florida; or,

(b) Any project identified in the adopted City of Alachua Long Range Transportation Plan, provided however that when the roadway improvement will be performed by an entity other than the City of Alachua, Alachua County, or State of Florida, a surety device in accordance with Section 7.4, Improvement guarantees for public improvements, or Section 6.10, Improvement guarantees for private improvements, as applicable, shall be posted with the City.

(Ord. No. 18-08, § 3(Exh. A), 4-9-2018; Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

Sec. 1.5. - Relationship with the Comprehensive Plan.

In order to accomplish the goals, objectives and policies listed within the Comprehensive Plan, these LDRs and accompanying Official Zoning Atlas are guided by, based on, related to, and a means of implementation for the Comprehensive Plan as required by the Florida Statutes. These LDRs and the Official Zoning Atlas shall be consistent with the Comprehensive Plan, and any amendments thereto shall also be consistent with the Comprehensive Plan, in accordance with State law.

State Law reference— Consistency of Land Development Code with Comprehensive Plan, F.S. §§ 163.3194(2), 163.3201.

Sec. 1.6. - Relationship to other ordinances, laws and agreements.

1.6.1 *Conflicts with other City regulations.* If the provisions of these LDRs are inconsistent with one another or if the provisions of these LDRs conflict with provisions found in other adopted codes, ordinances, or regulations of the City, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.

- 1.6.2 *Conflicts with private agreements.* If the provisions of these LDRs conflict with the provisions of private easements, covenants, or restrictions, and the provisions of these LDRs are more restrictive, the terms of these LDRs shall apply. The City shall not be responsible for monitoring or enforcing private easements, covenants, agreements, or restrictions, although the City may inquire as to whether land is subject to easements, covenants, agreements, and restrictions during the review of applications for development permit.
- 1.6.3 *Conflicts with State or Federal law.* If the provisions of these LDRs are inconsistent with the law or regulations of the State or Federal government, the more restrictive provision shall control, to the extent permitted by law.
- 1.6.4 *Conflicts with City Charter.* If the provisions of these LDRs are inconsistent with the City Charter, the more restrictive provision shall govern unless the terms of the provisions specify otherwise.

Sec. 1.7. - Official Zoning Atlas.

- 1.7.1 *Official Zoning Atlas.*
 - (A) *Generally.* The land areas subject to these LDRs are divided into zone districts as set out in [Article 3, Zone Districts](#), and as shown on the Official Zoning Atlas (or "Atlas") of the City. The Atlas shall be kept on file in the office of the LDR Administrator and shall be made available for public inspection during normal business hours. It shall be the final authority as to the status of the current zone district classification of land and water areas in the City, and shall only be amended in accordance with Section 2.4.1, Text amendments and general amendments to Official Zoning Atlas; Section 2.4.2, Site specific amendments to Official Zoning Atlas; and this subsection.
 - (B) *Damage, destroyed, lost.* In the event the Atlas is damaged, destroyed, lost or becomes difficult to read and interpret due to the number of changes, the City Commission may by ordinance adopt a new Atlas to replace the damaged, destroyed, or lost map. (See Section 2.4.1, Text amendments and general amendments to Official Zoning Atlas.) The new Atlas shall not make any substantive changes (amendments), but may correct drafting and other clerical errors and omissions on the previous Atlas.
- 1.7.2 *Incorporated by reference.* The Official Zoning Atlas, which may consist of one or more maps, together with all explanatory material shown therein are hereby incorporated by reference and made part of these LDRs.
- 1.7.3 *Zone district boundaries.* Unless otherwise specified, zone district boundary lines are lot lines, municipal corporate limits, the centerlines of streets, alleys, highways, railroad rights-of-way, streams, canals, lakes, low water lines, or such lines extended, fixed by dimensions, or otherwise clearly shown or described. Zone district boundaries shall be interpreted by the LDR Administrator in accordance with Section 2.4.19, Interpretation by LDR Administrator.
 - (A) *Boundary lines dividing parcels.* Where a zone district boundary divides a land parcel under a single ownership into two different districts, then the entire parcel shall be zoned for the less restrictive use by the adjustment of the boundaries, provided that the boundary adjustment is a distance of less than 100 feet.
 - (B)

Boundary lines and streets, highways, alleys, and railroad tracks. Where zone district boundaries are indicated as approximately following or being at right angles to the centerlines of streets, highways, alleys, or railroad main tracks, those centerlines or lines at right angles to those centerlines shall be construed to be the boundaries as they exist on the ground. In cases where variation of actual location from mapped location would change the zone district classification of land, the boundary shall be interpreted in such a manner as to avoid changing the zone district classification of such land.

- (C) *Vacated streets.* In case of a street vacation, the boundary shall be construed as remaining in its location except where ownership of the vacated street is divided other than at its center, in which case the boundary shall be construed as moving with the ownership.
- (D) *Boundary lines and bodies of water.*
 - (1) Where a zone district boundary is indicated as approximately following the centerline of a river, creek, branch, canal, or other body of water, the boundary shall be construed to follow the centerline at low water, or at the limit of the jurisdiction, and in the event of change in the shoreline, the boundary shall be construed as moving with the actual shoreline, except where such move would change the zone district classification of land. In such case, the boundary shall be interpreted in a manner as to avoid changing the zone district classification of such land.
 - (2) Boundaries shown as entering a body of water but not continuing to intersect with other zone district boundaries or with the limits of jurisdiction of the City shall be construed to continue in the direction in which they enter the body of water and intersect with another zone district boundary or with the limits of jurisdiction of the City.

1.7.4 *Changes to Official Zoning Atlas.* Changes made in zone district boundaries or other matters portrayed on the Official Zoning Atlas shall be made in accordance with the provisions of these LDRs. (See Section 2.4.1, Text amendments and general amendments to Official Zoning Atlas and Section 2.4.2, Site specific amendments to Official Zoning Atlas.) Changes shall be entered on the Atlas by the LDR Administrator promptly after the amendment has been approved by the City Commission.

1.7.5 *Mapping disputes.* The LDR Administrator is authorized to interpret the Official Zoning Atlas and determine where the boundaries of the different zone districts fall, if in dispute. (See Section 2.4.19, Interpretation by LDR Administrator.) Prior zoning atlases, or remaining portions thereof, shall be retained as a public record for informative purposes only.

1.7.6 *Removal of land from City through contraction.* If a contraction or removal of lands from the City occurs, zone district boundaries shall be changed to show these lands being removed from the Official Zoning Atlas.

1.7.7 *Annexation.* If lands are annexed into the City, the lands shall retain their current unincorporated zone district classification until an amendment to the Comprehensive Plan is adopted by the City. The landowner may request, or the City Commission or Planning and Zoning Board, in the City's sole discretion, may initiate a zone district classification in accordance with Section 2.4.2, Site specific amendments to Official Zoning Atlas, following adoption of the Comprehensive Plan amendment. The zone district classification shall be consistent with the Comprehensive Plan Future Land Use Map Designation. No development, redevelopment, or expansion shall be initiated until the City adopts an amendment to the Comprehensive Plan and Official Zoning Atlas for the area being annexed.

1.7.8

Transition to new zone districts. Upon adoption of these LDRs, land that is presently zoned with an existing zone district classification shall be reclassified or translated to one of the zone district classifications in these LDRs as set forth in [Article 3](#), Zone Districts. Table 1.7-1, Transition to New Zone Districts, summarizes the translation or reclassification of the zone districts in the previous LDRs to the zone districts used in these LDRs. (For example, Table 1.7-1 shows all lands classified as RSF-2 in the previous LDRs are reclassified RSF-1 in these LDRs.)

Table 1.7-1. Transition to New Zone Districts

Old Zone District [1]	Corresponding New Zone District [2]
Residential districts	
Residential Single-Family 1 (RSF-1)	Residential Single-Family 1 (RSF-1)
Residential Single-Family 2 (RSF-2)	Residential Single-Family 3 (RSF-3)
Residential Single-Family 3 (RSF-3)	
Residential Single-Family 4 (RSF-4)	Residential Single-Family 6 (RSF-6) (New)
Residential Single-Family 5 (RSF-5)	

Residential (Mixed) Single-Family/Mobile Home 1 (RSF/MH-1)	Residential Mobile Home 5 (RMH-5)
Residential (Mixed) Single-Family/Mobile Home 2 (RSF/MH-2)	
Residential (Mixed) Single-Family/Mobile Home 3 (RSF/MH-3)	
Residential (Mixed) Single-Family/Mobile Home 4 (RSF/MH-4)	
Residential Mobile Home 1 (RMH-1)	
Residential Mobile Home 2 (RMH-2)	
Residential Mobile Home 3 (RMH-3)	
Residential Mobile Home 4 (RMH-4)	
Residential Mobile Home Park (RMH-P)	Residential Mobile Home Park (RMH-P)
Residential Multiple-Family 1 (RMF-1)	Residential Multiple-Family 8 (RMF-8)
Residential Multiple-Family 2 (RMF-2)	Residential Multiple-Family 15 (RMF-15)
Business districts	
Residential/Office (RO)	Office Residential (OR)

Commercial Neighborhood (CN)	Neighborhood Commercial (CN)
Commercial General (CG)	Community Commercial (CC)
Commercial, Central Business District (C-CBD)	Central Business District (CBD)
Commercial, Intensive (CI)	Commercial Intensive (CI)
Commercial, Highway Interchange (CHI)	
Industrial, Light and Warehousing (ILW)	Light and Warehouse Industrial (ILW)
Industrial (I)	Industrial General (IG)
Planned development districts	
Planned Unit Development (PUD) (Planned Unit Developments approved prior to the effective date will be shown on the Official Zoning Atlas as PUD)	Planned Development-Residential (PD-R) (new) Planned Development-Commercial (PD-COMM) (new) Planned Development-Employment Center (PD-EC) (new) Planned Development-Traditional Neighborhood Development (PD-TND) (new)
Overlay districts	

Historic District	Historic Overlay (HO)
	Neighborhood Conservation Overlay (NCO) (new)
[1] Lands designated under old zone district as depicted in the left column of the table are translated or reclassified to the corresponding new zone district in these LDRs as depicted in the right column of the table. This reclassification occurs upon adoption of these LDRs.	
[2] In cases where an old zone district does not have a corresponding new zone district, lands designated with the old zone district designation will be translated to the most comparable corresponding new zone district designation available upon adoption of these LDRs.	

(Ord. No. 18-08, § 3(Exh. A), 4-9-2018)

Sec. 1.8. - Severability.

It is the legislative intent of the City Commission in adopting these LDRs that all provisions shall be liberally construed in order to implement the Comprehensive Plan and guide development in accordance with the existing and future needs of the City as established in the LDRs, and to promote the public health, safety, morals, and welfare of the landowners and residents of the City. If any section, subsection, sentence, clause or phrase of these LDRs is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of these LDRs. The City Commission hereby declares that it would have passed these LDRs and any section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

Sec. 1.9. - Transitional rules.

Commentary. One of the key issues of any Code update is whether and to what extent the new regulations and procedures can and should apply to pending development applications and existing uses with approved development permits.

On the one hand, to be most effective, the new procedures, development standards, and zone district regulations should apply broadly with as few exemptions or "grandfathering" as possible if the changes intended in the update are to become reality. If all pending development applications are exempt and all existing lots can be developed without regard to the proposed changes, the effectiveness of the new LDRs will be reduced. On the other hand, legal constraints regarding common law and statutory vested rights, as well as equitable and political considerations, must be taken into account. If a development application has already received significant approvals

from the City, there are usually strong legal and fairness reasons to allow the development to proceed under the rules in place when those approvals were granted. Additionally in Alachua, the City must be cognizant that application of new development standards and procedures could potentially make existing uses and structures nonconforming. It is assumed that as a matter of policy, the City wants to limit the number of nonconformities created by the new LDRs.

Since the new LDRs include changes from existing practice, this set of transitional provisions is necessary to explain the rights of development approved under the previous (existing) LDRs. It incorporates the following policies:

- Applications that are already in the development approval pipeline at the time of the adoption of the new LDRs may elect to be reviewed under the old or new regulations. If the applicant elects to be reviewed under the old regulations, the applicant must comply with all timeframes and conditions of permit approval or the approval will expire and all new development will be subject to the new LDRs.
- Development that has received other preliminary or final approval prior to the adoption of the new LDRs (special exception permits, variance permits, exemptions, special permits, planned unit developments, site and development plans, preliminary plats, certificates of appropriateness, certificates of LDR compliance, certificates of concurrency compliance, sign permits, and move-on permits for mobile homes) may continue to be reviewed for future permits and develop under the regulations in existence at the time of their approval. However, the development approved must comply with all timeframes and conditions of permit approval or the approval will expire and all new development will be subject to the new LDRs.
- Development that has received a final subdivision plat, minor subdivision final plat or building permit approval prior to the adoption of the new LDRs may proceed and develop, consistent with those permit approvals. However, the development must comply with all timeframes and conditions of permit approval or the approval will expire and all new development will be subject to the new LDRs.

1.9.1 *Effective date.* The effective date of these LDRs is February 27, 2006.

1.9.2 *Violations continue.* Any violation of the previous LDRs (Ordinance No. 0-93-4, as amended) of the City shall continue to be a violation under these LDRs and shall be subject to the penalties and enforcement set forth in [Article 9, Enforcement and Remedies](#), unless the use, development or other activity complies with the express terms of these LDRs.

1.9.3 *Completion of development plans commenced or approved under previous ordinances.*

(A) *Completed applications.*

- (1) Any complete application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of these LDRs, shall be reviewed and considered in accordance with either the provisions of Ordinance No. 0-93-4, or the provisions of these LDRs, at the applicant's option.
- (2) If the applicant elects to have the complete application reviewed under the provisions of Ordinance No. 0-93-4, the application shall be processed in good faith and shall comply with any timeframes for review. If the application fails to comply with the required timeframes, it shall expire and future development shall be subject to the requirements of these LDRs.

(B)

Final approval.

- (1) A development for which final approval (site-specific amendment to the Official Zoning Atlas, rezoning to a planned unit development district classification, site and development plan, special exception permit, variance permit, special permit, exemption, preliminary plat, certificate of appropriateness, certificate of LDR compliance, certificate of concurrency compliance, temporary use permit, sign permit, exemption to wellhead protection standards, or move-on permit for a mobile home) was granted prior to the effective date of these LDRs may be completed in accordance with the approved development approval or permit and any other approved permits and conditions, even if the development does not comply with one or more general development standards set forth in these LDRs.
 - (2) If the development for which final approval was granted prior to the effective date of these LDRs fails to comply with any timeframes for development, the final approval shall expire and future development shall be subject to the requirements of these LDRs.
- (C) *Development with previously issued building permit.*
- (1) Any structure or development for which a final subdivision plat, minor subdivision final plat, or building permit was granted prior to the effective date of these LDRs may be constructed in accordance with the development approval and any other approved permits and conditions, even if the development does not comply with one or more general development standards set forth in these LDRs.
 - (2) If the development for which the final subdivision plat, minor subdivision final plat, or building permit was issued prior to the effective date of these LDRs fails to comply with any timeframes for development established, the plat or building permit shall expire and future development shall be subject to the requirements of these LDRs.

Article 2 - ADMINISTRATION

Sec. 2.1. - Review and decision-making bodies.

2.1.1 *Summary of administration and review roles.*

- (A) *Decision-making bodies and City staff.* The following decision-making bodies and City staff have powers and responsibilities in administering and reviewing applications for development permit under these LDRs:
- (1) *City Commission.* City Commission.
 - (2) *Planning and Zoning Board (PZB).* Planning and Zoning Board (PZB).
 - (3) *Board of Adjustment (BOA).* Board of Adjustment (BOA).
 - (4) *City staff.* City staff, including the:
 - (a) LDR Administrator;

- (b) City Manager;
- (c) Public Services Director;
- (d) City Attorney;
- (e) Hearing Officer; and
- (f) Special Magistrate.

(B) *Development review structure.* Table 2.1-1, Development Review Structure, summarizes the review bodies and City staff that have specific permit review roles under these LDRs, and their responsibilities.

Table 2.1-1: Development Review Structure

S = Staff Review C = Plan Consistency Review R = Review and Advise

D = Final Decision A = Appeal

Development Permit	LDR Administrator	Board of Adjustment (BOA)	Planning and Zoning Board (PZB)	City Commission	Hearing Officer
Text Amendment and General Amendment to Official Zoning Atlas (Section 2.4.1)	S		C/R	D	
Site Specific Official Zoning Atlas Amendment (Rezone) (Section 2.4.2)	S		C/R	D	
Planned Development (Section 2.4.3)	S		C/R	D	
Special Exception Permit for Building Greater Than or Equal to 80,000 Square Feet in Area (Section 2.4.4(C)(2))	C/S		C/R	D	

Special Exception Permit for uses other than building greater than or equal to 80,000 square feet in area (Section 2.4.4(C)(3))	C/S		D	A	
Historic Sites and Structures					
Historic Overlay District Classification (Section 2.4.5)	S		C/R	D	
Certificate of Appropriateness (Minor Review) (Section 2.4.6)	D	A			
Certificate of Appropriateness (Major Review) (Section 2.4.6)	C/S		D	A	
Variance Permits					
Zoning Variance Permit (Section 2.4.7(C))	C/S	D			
Subdivision Variance Permit (Section 2.4.7(D))	S		C/R	D	
Administrative Adjustment (Section 2.4.8)	D	A			
Minor Site Plan (Section 2.4.9(B)(2)(a))	D	A			
Site Plan (Building Less Than 80,000 square feet in Area) (Section 2.4.9(B)(2)(b))	C/S		D	A	

Site Plan (Building Greater Than or Equal to 80,000 square feet in Area) (Section 2.4.9(B)(2)(c))	C/S		C/R	D	
Infrastructure Plan (Section 2.4.9(B)(2)(d))	C/S			D	
M	D	A			
Subdivision					
Minor Subdivision (Section 2.4.10(F))	S		C/R	D	
Major Subdivision					
Preliminary Plat (Section 2.4.10(G)(3))	S		C/R	D	
Construction Plans (Section 2.4.10(G)(4))	D			A	
Final Plat (Section 2.4.10(G)(6))	S			D	
Other Permits					
Sign Permit (Section 2.4.11)	D	A			
Temporary Use Permit (Section 2.4.12)	D	A			
Special Event Permit (Section 2.4.13)	D	A			
Certificate of Concurrency Compliance (Section 2.4.14)	D	A			

Certificate of LDR Compliance (Section 2.4.15)	D	A			
Special Permit (Section 2.4.16)	S		C/R/S	D	
Tree Removal Permit (Section 2.4.17)	D	A			
Mobile Home Move-on Permit (Section 2.4.18)	D	A			
Interpretation by LDR Administrator (Section 2.4.19)	D	A			
Appeals of Interpretation and Decision of LDR Administrator (Section 2.4.20)		D			
Vested Rights Certificate (Section 2.4.21)	C/S			D	
Beneficial Use Determination (Section 2.4.22)	S			D	R
Wellfield Exemption Permit (Section 2.4.23)	S		C/R	D	
Development Agreement (Section 2.5)	S		C/R	D	

2.1.2 City Commission.

(A) *Powers and duties.* In addition to any authority granted the City Commission by general or special law or the City Charter, the Commission shall have the following powers and duties:

- (1) *Amendments to LDR text.* To initiate, review, and decide applications to amend the text of these LDRs (Section 2.4.1, Text amendment).
- (2) *General amendments to Official Zoning Atlas.* To initiate, review, and decide applications to general amendments to the Official Zoning Atlas (Section 2.4.1).
- (3) *Site-specific amendments to Official Zoning Atlas (rezone).* To initiate, review, and decide applications on site-specific amendments to the Official Zoning Atlas (rezone) (Section 2.4.2).
- (4) *Planned development district (PD) classification.* To review and decide recommendations from the PZB on PD Master Plans and amendments to the Official Zoning Atlas to a planned development (PD) district (Section 2.4.3).
- (5) *Special exception permit for building greater than or equal to 80,000 square feet in area.* To review and decide applications on special exception permits for a building greater than or equal to 80,000 square feet in area (Section 2.4.4(C)(2)).
- (6) *Historic Overlay (HO) District classification.* To initiate, review, and decide recommendations from the PZB on amendments to the Official Zoning Atlas to apply the Historic Overlay (HO) District classification (Section 2.4.5).
- (7) *Subdivision variance permit.* To review and decide applications on subdivision variance permits from the subdivision standards (Section 2.4.7(D)).
- (8) *Site plan for building greater than or equal to 80,000 square feet in area and infrastructure plan.* To review and decide applications for site plans consisting of a building greater than or equal to 80,000 square feet in area (Section 2.4.9(D)(2)(c)) and to review and decide applications for infrastructure plans (Section 2.4.9(D)(2)(d)).
- (9) *Minor subdivision.* To review and decide applications for minor subdivisions (Section 2.4.10(F)).
- (10) *Major subdivision preliminary plat.* To review and decide applications for major subdivision preliminary plats (Section 2.4.10(G)).
- (11) *Major subdivision final plat.* To review and decide applications for major subdivision final plats (Section 2.4.10(G)).
- (12) *Appeals of LDR Administrator on major construction plans.* To review and decide appeals on decisions of the LDR Administrator on major subdivision construction plans (Section 2.4.10(G)).
- (13) *Appeal of PZB decisions.* To review and decide appeals on decisions of the PZB on:
 - (a) Special exception permits (Section 2.4.4).
 - (b) Certificates of appropriateness (Section 2.4.6).
 - (c) Site plans consisting of a building less than 80,000 square feet in area (Section 2.4.9(D)(2)(b)).
- (14) *Special permit.* To review and decide applications for special permits (Section 2.4.16).
- (15) *Vested rights certificate.* To review and decide applications for vested rights certificates (Section 2.4.22).
- (16) *Beneficial use determination.* To review and decide applications for beneficial use determinations (Section 2.4.23).
- (17) *Wellfield exemption permit.* To review and decide applications for wellfield exemption permits (Section 2.4.24).
- (18) *Development agreements.* To review requests, and, where appropriate and in its sole discretion, enter into development agreements (Section 2.5).

- (19) *Schedule of fees.* To approve by resolution a schedule of fees governing applications for permits and other permit approvals reviewed under these LDRs.
- (20) *Other.* To take any other action not delegated to the PZB, BOA, Special Magistrate, LDR Administrator, Public Services Director or City Attorney, as the City Commission may deem desirable and necessary to implement the provisions of these LDRs.

2.1.3 Planning and Zoning Board (PZB).

(A) *Designation as the local planning agency.* The Planning and Zoning Board (PZB) is authorized by the City Commission as the local planning agency (LPA), and in that role shall have the following powers and duties:

- (1) *Acquire and maintain information to understand trends and conditions.* Acquire and maintain such information and materials as are necessary to gain an understanding of past trends, present conditions and forces at work to cause changes in these conditions. Such information and materials may include maps and photographs of manmade and natural physical features of the areas subject to the Comprehensive Plan, statistics on past trends and present conditions with respect to population, property values, economic base, land use and such other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the areas subject to the Comprehensive Plan.
- (2) *Make recommendations to City Commission on Comprehensive Plan.* Prepare, update, and recommend to the City Commission and from time to time amend the Comprehensive Plan for meeting present requirements and such future requirements as may be foreseen.
- (3) *Recommend principles and policies for guiding actions.* Recommend principles and policies for guiding action affecting development in the City.
- (4) *Prepare and recommend land development regulations.* Prepare and make recommendations to the City Commission on proposed land development regulations, land development codes, ordinances, regulations, and other proposals promoting orderly development along the lines indicated as desirable by the Comprehensive Plan.
- (5) *Review developments for consistency with Comprehensive Plan.* Determine whether specific proposed developments conform to the principles and requirements of the Comprehensive Plan.
- (6) *Public hearings.* Conduct such public hearings as may be required to gather information necessary for the drafting, establishment, and maintenance of the Comprehensive Plan and ordinances, codes, and regulations related to it and establish public committees when deemed necessary for the purpose of collecting and compiling information necessary for the plan, or for the purpose of promoting the accomplishment of the plan in whole or in part.
- (7) *Special studies.* Make or cause to be made any necessary special studies on the location, adequacy, and conditions of specific facilities which are subject to the Comprehensive Plan. These may include but are not limited to studies on housing, commercial and industrial conditions and facilities, recreation, public and private utilities, roads and traffic, transportation, parking and the like.
- (8) *Advise City Commission.* Keep the City Commission informed and advised on preceding matters.
- (9) *Operate in conformity with Charter.* Operate in conformity with the Charter and other ordinances of the City, unless the Charter and/or the ordinances are inconsistent with F.S. ch. 166.
- (10)

Other duties. Perform such other duties as may be lawfully assigned to it, or which may have bearing on the preparation or implementation of the Comprehensive Plan.

- (B) *Designation as the Historic Preservation Agency.* The PZB shall serve as the City's Historic Preservation Agency to implement the policies and responsibilities related to historic preservation in the Comprehensive Plan and these LDRs.
- (C) *Powers and duties.* The PZB is authorized by the City Commission with the following powers and duties under these LDRs:
 - (1) *Special exception permits.* To review and make recommendations to the City Commission on special exception permit applications for a building greater than 80,000 square feet in area, and to review and decide applications for all other special exception permit applications (Section 2.4.4).
 - (2) *Certificate of appropriateness.* To review and decide applications for certificates of appropriateness (major review) (Section 2.4.6).
 - (3) *Site plan.* To review and make recommendations to the City Commission on site plan applications consisting of a building greater than or equal to 80,000 square feet in area (Section 2.4.9(D)(2)(c)), and to review and decide applications for site plan applications consisting of a building less than 80,000 square feet in area (Section 2.4.9(D)(2)(b)).
 - (4) *Amendments to LDR text.* To initiate, review, and make recommendations to the City Commission to approve or deny applications to amend the text of these LDRs (Section 2.4.1, Text amendment).
 - (5) *General amendments to Official Zoning Atlas.* To initiate, review, and make recommendations to the City Commission to approve or deny applications to general amendments to the Official Zoning Atlas (Section 2.4.1).
 - (6) *Site-specific amendments to Official Zoning Atlas (rezone).* To initiate, review, and make recommendations to the City Commission to approve or deny applications to for site-specific amendments to the Official Zoning Atlas (rezone) (Section 2.4.2).
 - (7) *Planned development.* To review and make recommendations to the City Commission on PD Master Plans and amendments to the Official Zoning Atlas to a planned development (PD) district (Section 2.4.3).
 - (8) *Historic Overlay (HO) District classification.* To initiate, review, and make recommendations to the City Commission to approve or deny amendments to the Official Zoning Atlas to apply a Historic Overlay (HO) Zone District classification (Section 2.4.5).
 - (9) *Subdivision variance permits.* To review and make recommendations to the City Commission on subdivision variance permits (Section 2.4.7(D)).
 - (10) *Minor subdivisions.* To review and make recommendations to the City Commission on minor subdivisions (Section 2.4.10(F)).
 - (11) *Major subdivision preliminary plats.* To review and make recommendations to the City Commission on major subdivision preliminary plats (Section 2.4.10(G)).
 - (12) *Special permit.* To review and make recommendations to the City Commission on special permits (Section 2.4.16).
 - (13) *Wellfield exemption permits.* To review and make recommendations to the City Commission on wellfield exemption permits (Section 2.4.24).
 - (14) *Development agreements.* To review and make recommendations to the City Commission on development agreements (Section 2.5).
 - (15)

Make special knowledge and expertise available. To make its special knowledge and expertise available upon written request and authorization of the City Commission to any official, department, board, commission or agency of the City.

- (16) *Studies.* To make studies of the resources, possibilities and needs of the City upon the authorization of the City Commission, and report its findings and recommendations, with reference thereto, to the City Commission.
- (17) *Annual review of Capital Improvement Plan.* To conduct an annual review of the capital improvement element of the Comprehensive Plan to ensure that the fiscal resources necessary to maintain adopted level of service standards are available.

(D) *Membership.*

- (1) *Number.* The PZB shall consist of six members: five voting members and one nonvoting member appointed by the School Board of Alachua County.
- (2) *Appointment.* Each voting member shall be appointed by the City Commission.
- (3) *Other office.* No voting member shall hold another municipal office or be an employee of the City.
- (4) *Terms of office.*
 - (a) Terms of office shall be three years.
 - (b) A member shall continue to serve until the member is reappointed or replaced.
- (5) *Resignation.* Any member who resigns prior to the end of the member's term shall do so in writing to the Chair.
- (6) *Removal.* Any member shall be removed for more than three unexcused absences during any calendar year.
- (7) *Filling of vacancy.*
 - (a) When a vacancy occurs due to expiration of term or removal, the City shall advertise to fill the vacancy through a public posting and in a newspaper of general circulation at least 14 days prior to the date of expiration. The City Commission shall fill the vacancy from among the applications received.
 - (b) Vacancies occurring other than through expiration of a term shall be filled for the unexpired term by appointment from the City Commission.
- (8) *Compensation.* The members of the PZB shall serve without compensation, except that the City Commission may prescribe a per diem for attendance at meetings.
- (9) *Filing of financial disclosure form.* Members of the Planning and Zoning Board shall file the appropriate financial disclosure forms as required by the State of Florida.

(E) *Chair and other officers.*

- (1) *Generally.* The PZB shall elect a Chair and Vice-Chair from among the appointed members and create and fill such other offices as it may determine.
- (2) *Term of office.* The term of office of the Chair or Vice-Chair shall be one year, and there shall be no limits placed on the number of consecutive terms as Chair or Vice-Chair.
- (3) *General duties.*

(a) The Chair shall preside at all meetings of the PZB, decide all points of order on procedure, compel the attendance of witnesses, and take such action as shall be necessary to preserve the order and integrity of all proceedings before the PZB.

(b) In the absence of the Chair, the Vice-Chair shall act as Chair and shall have all powers of the Chair. In the absence of the Chair and Vice-Chair, the most senior PZB member shall act as Chair and shall have the powers of the Chair.

(F) *Staff.* The LDR Administrator shall serve as the secretary and professional staff to the PZB and provide it with administrative support.

(G) *Meetings.*

(1) *Monthly meetings.* The PZB shall hold at least one regular meeting in each month, if necessary.

(a) *Special meetings.* In addition to its regular meetings, the PZB may meet at the call of the Chair or within 30 days after receipt of a matter to be acted upon by the PZB, or at the written request of one member submitted to the LDR Administrator for the Chair's consideration.

(b) *Quorum.* No meeting of the PZB shall be called to order, nor may any business be transacted by the PZB, without a quorum consisting of three voting members being present. If at any time during a public meeting or public hearing a quorum is lost, it shall be stated in the minutes and no final action on a matter shall be taken by the PZB.

(c) *Decisions.* The concurring vote of a simple majority of a quorum in attendance and voting shall be necessary to pass any motion of the PZB.

(d) *Abstention.* Any PZB member with a private or personal interest in matters coming before the PZB shall declare such interest and abstain from all participation regarding that matter. No member of the PZB shall appear before the PZB as an agent or attorney representing another person.

(e) *Open to the public.* All meetings of the PZB shall be open to the public.

(f) *Official record.*

(i) The PZB shall adopt rules for the transaction of business and shall keep a record of its recommendations, transactions, findings, and determinations.

(ii) Such record shall be a public record, and shall be maintained in the office of the LDR Administrator.

(g) *Disbursement of funds.* Funds may be appropriated by the City Commission in connection with the work of the PZB as determined necessary by the City Commission.

(H) *Rules.* The PZB shall establish written rules for its operation in accordance with these LDRs and any applicable State laws, which shall be made available to the public.

(I) *Assistance to PZB.* All employees of the City and public officials shall, upon written request, furnish to the PZB, within a reasonable time, such available information as it may require for its work.

(J) *Right of entry.* The PZB and its members, officers and staff, in the performance of their functions, may enter upon any land for which an application for development permit is being considered, and make examinations and surveys and place and maintain necessary monuments and marks thereon, as allowed under relevant public meeting laws outlined in the Florida Statutes.

2.1.4 *Board of Adjustment (BOA).*

(A) *Powers and duties.* The BOA is authorized by the City Commission with the following powers and duties under these LDRs:

- (1) *Zoning variance permit.* To review and decide applications for zoning variance permits from dimensional and design standards (Section 2.4.7(C)).
- (2) *Appeals.* To hear and decide appeals on:
 - (a) Administrative adjustments (Section 2.4.8).
 - (b) Sign permits (Section 2.4.11).
 - (c) Temporary use permits (Section 2.4.12).
 - (d) Special event permits (Section 2.4.13).
 - (e) Certificates of concurrency compliance (Section 2.4.14).
 - (f) Certificates of LDR compliance (Section 2.4.15).
 - (g) Tree removal permits (Section 2.4.17).
 - (h) Mobile home move-on permits (Section 2.4.18).
 - (i) Interpretations of the LDR Administrator (Section 2.4.20).

(B) *Membership.* The BOA shall consist of the five members of the City Commission.

(C) *Chair and other officers.*

(1) *Generally.* The Chair of the BOA is the Mayor. The Vice-Chair of the BOA is the Vice-Mayor.

(2) *General duties.*

- (a) The Chair shall preside at all meetings of the BOA, decide all points of order on procedure, compel the attendance of witnesses, and take such action as shall be necessary to preserve the order and integrity of all proceedings before the BOA.
- (b) In the absence of the Chair, the Vice-Chair shall act as Chair and shall have all powers of the Chair. In the absence of the Chair and Vice-Chair, the most senior BOA member shall act as Chair and shall have the powers of the Chair.

(D) *Staff.* The LDR Administrator shall serve as the secretary and professional staff to the BOA and provide it with administrative support.

(E) *Meetings.*

(1) *Monthly meetings.* The BOA shall hold meetings as necessary, in conjunction with City Commission meetings.

- (a) *Special meetings.* In addition to its regular meetings, the BOA may meet at the call of the Chair or within 30 days after receipt of a matter to be acted upon by the BOA.
- (b)

Quorum. No meeting of the BOA shall be called to order, nor may any business be transacted by the BOA, without a quorum consisting of three members being present. If at any time during a public hearing a quorum is lost, it shall be stated in the minutes and no final action on a matter shall be taken by the BOA.

- (c) *Decisions.* The concurring vote of a simple majority of the members in attendance and voting shall be necessary to pass any motion of the BOA.
 - (d) *Abstention.* Any BOA member with a private or personal interest in matters coming before the BOA shall declare such interest and abstain from all participation regarding that matter. No member of the BOA shall appear before the BOA as an agent or attorney representing another person.
 - (e) *Open to the public.* All meetings of the BOA shall be open to the public.
 - (f) *Official record.*
 - (i) The BOA shall adopt rules for the transaction of business and shall keep a record of its recommendations, transactions, findings, and determinations.
 - (ii) Such record shall be a public record, and shall be maintained in the office of the City Clerk.
- (F) *Rules.* The BOA shall establish written rules for its operation in accordance with these LDRs and any applicable State laws, which shall be made available to the public.

2.1.5 *Reserved.*

2.1.6 *City staff.*

- (A) *Land Development Regulation (LDR) Administrator.*
 - (1) *Generally.* The LDR Administrator is the City Manager or designee, and shall be the City official responsible for administering the provisions of these LDRs.
 - (2) *Powers and duties.* In addition to the jurisdiction, authority and duties that may be conferred upon the LDR Administrator by other provisions of the City Code and general or special law, the LDR Administrator shall have the following jurisdiction, powers and duties under these LDRs:
 - (a) To supervise, review and decide applications for:
 - (i) Certificates of appropriateness (minor review) (Section 2.4.6).
 - (ii) Administrative adjustments (Section 2.4.8).
 - (iii) Minor site plans (Section 2.4.9(D)(2)(a)).
 - (iv) Major subdivision construction plans (Section 2.4.10(G)).
 - (v) Sign permits (Section 2.4.11).
 - (vi) Temporary use permits (Section 2.4.12).
 - (vii) Special event permits (Section 2.4.13).
 - (viii) Certificates of concurrency compliance (Section 2.4.14).

- (ix) Certificates of LDR compliance (Section 2.4.15).
 - (x) Tree removal permits (Section 2.4.17).
 - (xi) Mobile home move-on permits (Section 2.4.18).
- (b) To render interpretations of these LDRs and the Official Zoning Atlas (Section 2.4.19).
- (c) To establish application content requirements and a submission schedule for review of applications and appeals (Section 2.2.2).
- (d) To compile and maintain an Administrative Manual (Section 2.2.2) and a Technical Design and Development Standards Manual.
- (e) To review and make recommendations through a staff report to the City Commission, PZB and BOA on applications for development permits and permit approvals, where appropriate, and take any other action necessary to administer the provisions of these LDRs (Section 2.2.7).
- (f) To maintain the Official Zoning Atlas and other such records and official materials that relate to the adoption, amendment, enforcement, or administration of these LDRs.
- (g) To track public facility capacity and prepare reports on development activity as part of a concurrency management system (Section 2.4.14).
- (h) To assist the Special Magistrate in enforcing these LDRs in accordance with Article 9, Enforcement and Remedies.
- (i) To provide expertise and technical assistance to the City Commission, PZB, BOA and Special Magistrate upon request.

(B) *Public Services Director.* In addition to the authority and duties that may be conferred on the Public Services Director by general law and the City Code of Ordinances, the Public Services Director shall be responsible for reviewing compliance with the standards in Section 7.3, Required improvements.

(C) *City Attorney.* In addition to the authority and duties that may be conferred upon the City Attorney by general law and the Code of Ordinances, the City Attorney shall have the following powers and duties under these LDRs:

- (1) *Generally.* To review and approve as to form all written findings of fact, conclusions of law, permits, permit approvals, ordinances, and other documents drafted by the City departments, City Commission, PZB, BOA and LDR Administrator in connection with any requirement of these LDRs.
- (2) *Agreements, easements, performance agreements.* To review as to form all agreements, planned development terms and conditions, easements, declarations of covenants, letters of credit, performance bonds or such other documentation in connection with any requirement of these LDRs.
- (3) *Enforcement.* To assist the LDR Administrator in the enforcement of these LDRs in accordance with Article 9, Enforcement and Remedies.
- (4) *Counsel.* To counsel the City Commission, PZB, BOA, LDR Administrator, and City departments in regard to the legal issues that may arise in the review of applications for permits and permit approval and the general implementation of these LDRs.

(D) *Hearing officer.*

- (1) *Creation and appointment.* The City Commission may designate and confirm one or more hearing officers to hear and consider such matters as may be required to be conducted by a hearing officer under any provision of these LDRs, or as may be determined to be appropriate. The hearing officers shall serve at the pleasure of the City Commission for such period as is determined by the City Commission. The hearing officers shall be compensated at a rate

to be determined by the City Commission. Whoever shall accept an appointment as a hearing officer shall, for a period of one year from the date of termination as holder of such position, not act as agent or attorney in any proceeding, application, or any matter before any decision-making or advisory body of the City in any matter involving land that was the subject of a proceeding which was pending during the time served as a hearing officer.

(2) *Minimum qualifications.* A hearing officer shall have the following minimum qualifications:

- (a) Demonstrated knowledge of administrative, zoning, and land use law and practice.
- (b) Hold no appointive or elective public office or position in the City during the period of appointment.

(3) *Powers and duties.* A hearing officer shall have the following duties:

- (a) To review and make recommendations to the City Commission on applications for beneficial use determinations (Section 2.4.22).
- (b) To compel the attendance of witnesses and production of documents, and to administer oaths to witnesses appearing at hearings.
- (c) To perform other such tasks as the City Commission may assign.

(Ord. No. 06-31, § 14, 12-18-2006; Ord. No. 09-30, § 3, 9-28-2009; Ord. No. 13-01, § 3, 12-10-2012; Ord. No. 19-22, § 3(Exh. A), 3-25-2019; Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

Sec. 2.2. - Common development review procedures.

2.2.1 *Authority to file applications.*

- (A) *Generally.* Applications submitted under the LDRs in accordance with Subsection 2.2.5 of this section, Application submission, shall be submitted by the landowner, or any other person having a recognized interest in the land upon which the development is proposed, or their authorized agent.
- (B) *Applicant not the owner.* If the applicant is not the owner of the land, or is a contract purchaser of the land, an affidavit signed by the owner consenting to the submission of the application shall be submitted. If the applicant is a tenant, the applicant shall also include the lease or rental agreement in addition to the owner affidavit.
- (C) *Applicant is not the sole owner.* If the applicant is not the sole owner of the land, an affidavit signed by the other owners or an entity representing the owners consenting to or joining in the application shall be submitted.

2.2.2 *Application contents, submission schedule and fees.*

- (A) *Establishment of application contents.* The LDR Administrator is authorized and shall establish the requirements for application contents and forms. The LDR Administrator may amend and update these requirements, as determined necessary.
- (B) *Establishment of submission schedule.* The LDR Administrator is authorized and shall establish the submission and review schedule (including timeframes for review) for applications for development permit. The LDR Administrator may amend and update these requirements, as determined necessary.
- (C) *Fees.*
 - (1) The City Commission shall establish application fees and may amend and update those fees, as determined necessary.

- (2) No application shall be processed until the established fee has been paid.
- (3) Application fees, or portions thereof, are not refundable except where the LDR Administrator determines that an application was accepted in error, the fee paid exceeded the amount due, the application is withdrawn prior to notification of a public hearing (if required), or if the decision-making body or City staff determines the application has been submitted in good faith, but circumstances beyond the applicant's control result in a need to withdraw the application. In no instance shall an application fee, or any portion thereof, be refunded for any costs incurred by the City and directly related to the review of the application, which may include, but is not limited to, review by City Staff or consulting professionals.

2.2.3 *Preapplication conference.*

- (A) *Purpose.* The purpose of a preapplication conference is to familiarize the applicant and the City staff with the applicable provisions of these LDRs required to permit proposed development, and to inform the applicant about the preparation of the application and the application process.
- (B) *Preapplication conference mandatory.* A preapplication conference is mandatory prior to submission of any application for:
 - (1) Site-specific amendments to the Official Zoning Atlas (rezoning) (Section 2.4.2);
 - (2) Text amendments to the LDRs (Section 2.4.1);
 - (3) Planned developments (Section 2.4.3);
 - (4) Historic Overlay District classification (Section 2.4.5);
 - (5) Site plans and infrastructure plans (Sections 2.4.9(D)(2)(b), (c), and (d));
 - (6) Special permits for land and/or water filling, or dredging (Section 2.4.16);
 - (7) Minor subdivisions (Section 2.4.10(F));
 - (8) Major subdivision preliminary plats (Section 2.4.10(G));
 - (9) Special exceptions (Section 2.4.4);
 - (10) Vested rights certificate (Section 2.4.22);
 - (11) Beneficial use determination (Section 2.4.23);
 - (12) Wellfield exemption permit (Section 2.4.24); and
 - (13) Development agreements (Section 2.5).
- (C) *Preapplication conference optional.* A preapplication conference is optional prior to submission of any other application for development permit.
- (D) *Initiation.* An applicant proposing to submit an application for development permit for which a preapplication conference is mandatory shall request in writing such preapplication conference from the LDR Administrator prior to submission of the application. Application for the development permits that require preapplication conferences shall not be complete (Subsection 2.2.6 of this section, Determination of completeness) until after a required preapplication conference is conducted.

- (E) *Required information.* Applicants for required preapplication conferences shall provide a written description of the proposal to the LDR Administrator at least three business days in advance of the conference. The written description shall include, at a minimum, a description of the character, location, and magnitude of the proposed development, a concept or sketch plan (if applicable), information regarding the status of public facilities proposed to serve the development, basic environmental information, and any other information determined to be appropriate by the LDR Administrator.
- (F) *Effect.* The preapplication conference is intended as one means of facilitating review of application for development permit. Discussions held in accordance with this Subsection 2.2.3 are not binding on the City. Processing times for review of applications do not begin until a formal, complete application is submitted and determined to be complete.
- (G) *Preapplication conference to be held prior to neighborhood meeting.* When a preapplication conference and a neighborhood meeting are both required for an application, the preapplication conference shall be held before the neighborhood meeting for the application.

2.2.4 Neighborhood meetings.

- (A) *Generally.* The purpose of the neighborhood meeting is to educate occupants and owners of nearby lands about the proposed development and application, receive comments, address concerns about the development proposal, and resolve conflicts and outstanding issues, where possible.
- (B) *Favored practice.* Neighborhood meetings are encouraged as opportunities for informal communication between owners and occupants of nearby lands, applicants and other residents who may be affected by development proposals.
- (C) *Applicability.* Neighborhood meetings are mandatory for site-specific amendments to the Official Zoning Atlas (Section 2.4.2), planned developments (Section 2.4.3), special exception permits (Section 2.4.4), site plans (Section 2.4.9) and major subdivision preliminary plats (Section 2.4.10(G)(3)). Neighborhood meetings are optional for any other applications under these LDRs.
- (D) *Procedure.* If a neighborhood meeting is held by the applicant, it shall generally comply with the following procedures:
 - (1) *Time and place.* The neighborhood meeting shall be held at a place that is generally accessible to neighbors that reside in close proximity to the land subject to the application. It shall be scheduled after 5:00 p.m. on a weekday or at any time on a weekend day. The City Manager may grant a waiver from the requirement to hold the neighborhood meeting after 5:00 p.m. on a weekday if the applicant demonstrates, in writing, that a particular hardship or undue burden exists that prevents them from holding the neighborhood meeting after 5:00 p.m. on a weekday.
 - (2) *Notification.* The applicant shall provide notification of the neighborhood meeting a minimum of ten business days in advance of the meeting by placing notice in a newspaper of general circulation and by mailing notice to all owners and occupants within 400 feet of the land subject to the application, and to any organizations or persons who have registered to receive notification of applications for development permit in accordance with Subsection 2.2.9(G) of this section, Registration, to receive notice by mail. The list of owners within 400 feet of the affected property shall be obtained by the applicant from the most recent version of the property owners of record provided by the Alachua County Property Appraiser. The City of Alachua, in care of the City Manager, shall be added to the notification mailing list for all neighborhood meetings. The notification shall state the time and place of the meeting.
 - (3)

Conduct of meetings. At the neighborhood meeting, the applicant shall explain the development proposal and application, inform attendees of the character and nature of the process for review, and respond to comments and questions neighbors may have about the application and propose ways to resolve conflicts.

- (4) *Staff attendance.* City staff may attend the neighborhood meeting for the purpose of advising the attendees regarding applicable provisions of these LDRs, but shall not serve as facilitators or become involved in negotiations at the neighborhood meeting.
- (5) *Written summary of neighborhood record of meeting.* The applicant shall provide the LDR Administrator a written summary of the neighborhood meeting. The written summary shall include a list of those in attendance, a summary of the issues related to the development proposal discussed, comments by those in attendance about the development proposal, and any other information the applicant deems appropriate. The written summary of the neighborhood meeting shall be included with the application materials, and be made available to the public for inspection.
- (6) *Response to summary.* Any party in attendance at the neighborhood meeting may submit an additional written summary indicating their understanding of the issues related to the development proposal discussed, comments by those in attendance about the development proposal, and any other information they deem appropriate. This written summary may include a response to the applicant's written summary of the neighborhood meeting. The written summary shall be included with the application materials, and be made available for public inspection.

2.2.5 *Application submission.* Applications shall be submitted to the LDR Administrator in accordance with the application submittal schedule (Subsection 2.2.2(B) of this section), in the form established by the LDR Administrator (Subsection 2.2.2(B) of this section), along with a fee established in accordance with Subsection 2.2.2(C) of this section, Fees. Applications not meeting the requirements of Subsection 2.2.6 of this section, Determination of completeness, shall be considered incomplete.

2.2.6 *Determination of completeness.*

- (A) *Completeness review.* Upon receipt of an application, the LDR Administrator shall determine if the application is complete. A complete application is one that:
 - (1) *Contains all necessary information and materials.* Contains all information and materials established by the LDR Administrator as required for submittal of the particular type of application (Subsection 2.2.2(B) of this section).
 - (2) *In proper form.* Is in the form established by the LDR Administrator as required for submittal of the particular type of application (Subsection 2.2.2(B) of this section).
 - (3) *In sufficient detail.* Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate substantive standards of these LDRs. (Information that is incorrect does not automatically render an application incomplete, provided that the error is minor in nature and can be corrected by the applicant within five working days of notification about the error by the LDR Administrator.)
 - (4) *Accompanied by proper fee.* Is accompanied by the fee established for the particular type of application in accordance with Subsection 2.2.2(C) of this section, Fees.

(B) *Application incomplete.*

- (1)

If it is determined the application is incomplete, the LDR Administrator shall send written notice to the applicant of the deficiencies within five business days after submittal, and the application shall not be processed. (The day of submittal of the application shall not be counted.) The applicant may correct the deficiencies and resubmit the application for completeness determination. The timeframe and cycle for review shall be based upon the date the application is determined to be complete.

(2) If the applicant fails to respond to the identified deficiencies within 45 calendar days, the application shall be considered withdrawn.

(C) *Application complete.* When the application is determined complete, it shall be reviewed in accordance with the procedures and standards of this section.

2.2.7 *Preparation of staff report.*

(A) *Application subject to public hearing or to be reviewed by review body.* When an application is subject to a public hearing (see Table 2.2-1, Required Public Hearings) or will be considered by a decision-making or review body after it is determined complete, the LDR Administrator shall refer the application to the appropriate staff, outside expert consultants, and any other appropriate review agencies for comment, review the application, communicate with the applicant regarding any questions, and prepare a written staff report. The staff report shall be provided to the applicant and made available to the public a reasonable period of time before the first scheduled public hearing on the application. The staff report shall be addressed to the decision-making or review body and shall state whether the application complies with all appropriate standards of these LDRs. The staff report shall include a staff recommendation. Conditions for approval may also be recommended to eliminate any areas of noncompliance or to mitigate any adverse effects of the applications for development permit.

(B) *Application reviewed by LDR Administrator.* When an application for a development permit is not subject to a public hearing but is reviewed administratively by the LDR Administrator, preparation of a staff report shall be optional at the discretion of the LDR Administrator. If the LDR Administrator determines that a staff report is necessary, it shall be done in accordance with Subsection 2.2.7(A) of this section, except that it shall be addressed and provided to the applicant.

(C) *Contents of staff report.* At a minimum, the staff report shall contain the following information:

- (1) Findings of fact;
- (2) Conclusions of law, including a finding of compliance or noncompliance with the Comprehensive Plan;
- (3) Application of the facts to the relevant review standards, including concurrency management;
- (4) Staff's recommendation for approval, approval with conditions, or denial of the application; and
- (5) Bases for staff's recommendation, including relevant citations of the comprehensive plan goals, objectives and policies and these LDRs.

2.2.8 *Scheduling public hearings.*

(A) *Application to be scheduled for meeting.* When an application is subject to a public hearing (see Table 2.2-1, Required Public Hearings), the LDR Administrator shall ensure that the public hearing on the application is scheduled for a regularly scheduled meeting or a meeting specially called for that purpose by the decision-making or review body reviewing the application.

(B) *Timing.* The public hearing on the application shall be scheduled so there is sufficient time for a staff report to be prepared and for the public notification (Subsection 2.2.9 of this section, Public notification) requirements to be satisfied.

(C) *Public hearings.* A public hearing shall be conducted by the appropriate decision-making or review bodies for applications for development permit as depicted in Table 2.2-1, Required Public Hearings, and in accordance with Section 2.3, Public hearing procedures.

Table 2.2-1. Required Public Hearings

Q = Quasi-judicial hearing (Section 2.3.1);

S = Standard public hearing (Section 2.3.2)

Application Type	Review and/or Decision-Making Body			
	Board of Adjustment (BOA)	Planning and Zoning Board (PZB)	Hearing Officer	City Commission
Text amendment and general amendment to Official Zoning Atlas (Section 2.4.1)		S		S
Site-specific amendment to Official Zoning Atlas (Section 2.4.2, rezone)		Q		Q
Planned development (Section 2.4.3)		Q		Q
Special exception permit for building greater than or equal to 80,000 square feet in area (Section 2.4.4(C)(2))		Q		Q
Special exception permit for uses other than building greater than or equal to 80,000 square feet in area Section 2.4.4(C)(3))		Q		
Historic Overlay District classification (Section 2.4.5)		Q		Q

Certificate of appropriateness (Section 2.4.6)		Q		
Zoning variance permit (Section 2.4.7(C))	Q			
Subdivision variance permit (Section 2.4.7(D))		Q		Q
Site plan (building less than 80,000 square feet in area) (Section 2.4.9(D)(2)(b))		Q		
Site plan (building greater than or equal to 80,000 square feet in area) (Section 2.4.9(D)(2)(c))		Q		Q
Infrastructure Plan (Section 2.4.9(D)(2)(d))				Q
Minor subdivision (Section 2.4.10(F))		Q		Q
Major subdivision (Section 2.4.10(G))				
Preliminary plat		Q		Q
Final plat				Q
Special permits (Section 2.4.16)		Q		Q
Appeals of (Section 2.4.20)				
Interpretation and decision of LDR Administrator	S			
Decision on construction plans by LDR Administrator				S

Appeals of PZB decision (Section 2.4.21)				Q
Vested rights certificate (Section 2.4.22)				S
Wellfield exemption permit (Section 2.4.24)		Q		Q
Development agreement (Section <u>2.5</u>)		S		S

2.2.9 *Public notification.* All applications for development approval requiring public hearings shall comply with the Florida Statutes, Table 2.2-2, Timing of Required Notice, and the other provisions of this section with regard to public notification.

- (A) *Content.* All notices for public hearings, unless expressly noted otherwise, whether done by mail (written notice), publication, or posting shall:
- (1) *Application and applicant.* Identify the application and the name of the applicant or the applicant's agent (except posted notice).
 - (2) *Time and place of public hearing.* Indicate the date, time, and place of the public hearing (except posted notice).
 - (3) *Location.* Describe the land involved by street address or by tax parcel number and nearest cross street, and area (size) (except posted notice).
 - (4) *Current zoning.* Identify the current zone district classification of the land subject to the application.
 - (5) *Describe nature and scope of application.* Describe the nature, scope, and type of the application or proposal being advertised. In addition, for an application for development agreement, identify the proposed uses and proposed densities and intensities of the land that would be subject to the development agreement.
 - (6) *Describe materials available for public instruction.* Describe where the application, the staff report, and any related materials may be inspected by the public, and state that these materials are available for public inspection during normal business hours.
 - (7) *Submission of written materials prior to public hearing.* Include a statement describing where affected parties and the public may submit written comments or evidence prior to the public hearing.
 - (8) *Notify affected parties where they may be heard.* Include a statement informing affected parties that they may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application.
 - (9) *Notify public that they may be heard.* Include a statement stating that the general public may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application.
- (B) *Written (mailed) notice.* When the provisions of these LDRs require that written or mailed notice be provided (Subsection 2.2.9(E) of this section), Required notice and timing), the LDR Administrator shall be responsible for preparing and mailing the written notice. Notice shall be mailed to:

- (1) *All owners of land subject to an application.* All owners of the land subject to an application for development permit whose address is known by reference to the latest ad valorem tax records at the time the application is determined complete.
 - (2) *All owners of land within 400 feet of land subject to an application.* All owners of land within 400 feet of the land subject to the application whose address is known by reference to the latest ad valorem tax records at the time the application is determined complete. Prior to the scheduling of public hearings for an application, the City Commission may extend the distance of the mailed notice requirements, based upon staff' recommendation that an application has Citywide, Countywide or regional impacts.
 - (3) *Organizations and persons.* Organizations and persons that have registered to receive notice in accordance with Subsection 2.2.9(G) of this section, Registration to receive notice by mail. Notice shall be deemed mailed by its deposit in the United States mail, first class, properly addressed, postage paid. The LDR Administrator shall prepare an affidavit with a certified list of landowners to whom notice was mailed based upon the ad valorem tax records and registrants (Subsection 2.2.9(G) of this section), with affirmance that notice meeting the content requirements of Subsection 2.2.9(A) of this section, Content, was mailed. The affidavit shall be conclusive that notice has been given in accordance with the terms of this subsection. A copy of the mailed notice shall be maintained in the office of the LDR Administrator for public inspection during normal business hours. The affidavit shall be included as an appendix to the staff report.
- (C) *Published notice.* When the provisions of these LDRs require notice be published (Subsection 2.2.9(E) of this section, Required notice and timing), the LDR Administrator shall be responsible for preparing the content of the notice and publishing the notice in a newspaper of general circulation. The content and form of the published notice shall be consistent with the requirements of Florida law (F.S. § 166.041, as amended). The LDR Administrator shall prepare an affidavit certifying that published notice has occurred in accordance with the requirements of this subsection. The affidavit shall be included as an appendix to the staff report.
- (D) *Posted notice.* When the provisions of these LDRs require that notice be posted on the land subject to the application (Subsection 2.2.9(E) of this section, Required notice and timing), the applicant shall:
- (1) Post a notice on weatherproof signs in a form established by the LDR Administrator; and
 - (2) Place the signs on land that is the subject of the application, along each street which is adjacent to or runs through the land in a manner that makes them clearly visible. Signs shall be posted at intervals of not more than 400 feet when the land subject to the application has less than 1,500 feet of road frontage. When the land subject to the application has 1,500 feet or more of road frontage, signs shall be posted at intervals of not more than 1,320 feet.
- The signs shall be set back no more than 25 feet from the public street so that the lettering is visible from the street. Where the land does not have frontage on a public street, signs shall be erected on the nearest public street with an attached notation indicating generally the direction and distance to the land subject to the application. The applicant shall sign and provide to the LDR Administrator an affidavit stating that posted notice has been provided in accordance with the requirements of this subsection, and that the contents of the posted notice comply with the content requirements of Subsection 2.2.9(A) of this section, Content. The affidavit shall be conclusive that notice has been given in accordance with the terms of this subsection. The affidavit shall be included as an

appendix to the staff report. The signs shall be inspected by the LDR Administrator subsequent to posting. The applicant shall be responsible for ensuring that the posted notice is maintained on the land subject to the application until the completion of the final public hearing on the application. The signs shall be removed by the applicant within ten days after the final decision on the application.

- (E) *Required notice and timing.* Unless otherwise expressly provided in State statutes or these LDRs, notice shall be provided in accordance with the following Table 2.2-2, Timing of Required Notice:

Table 2.2-2. Timing of Required Notice			
Application Type	Notice Required [1]		
	Written (mailed) (Subsection 2.2.9(B) of this section)	Published (Subsection 2.2.9(C) of this section)	Posted (Subsection 2.2.9(D) of this section)

Text amendment (Section 2.4.1)		At least 10 days prior to first and second public hearings	
General amendment to Official Zoning Atlas (Section 2.4.1)	At least 14 days prior to public hearings		
Site-specific amendment to Official Zoning Atlas (rezone) (Section 2.4.2)			At least 14 days prior to public hearings
Planned development (Section 2.4.3)			

Special exception permit (Section 2.4.4) and appeal of PZB decision on special exception (Section 2.4.21)	At least 14 days prior to public hearings	At least 10 days prior to public hearings	At least 14 days prior to public hearings
Historic Overlay District classification (Section 2.4.5)	At least 14 days prior to public hearings	At least 10 days prior to public hearings	At least 14 days prior to public hearings

Certificate of appropriateness (Section 2.4.6)		At least 10 days prior to public hearing	
Variance permits (Section 2.4.7)			At least 14 days prior to public hearings

Site plan consisting of building less than 80,000 square feet in area (Section 2.4.9(D)(2)(b)) and appeal of PZB decision on site plan (Section 2.4.21)	At least 14 days prior to public hearing(s)		At least 14 days prior to public hearing(s)
Site plan consisting of building greater than or equal to 80,000 square feet in area (Section 2.4.9(D)(2)(c))			
Infrastructure plan (Section 2.4.9(D)(2)(d))			

Appeals of interpretations and decisions of LDR Administrator (Section 2.4.20)			
Subdivisions (minor subdivision, preliminary plat, final plat) (Section 2.4.10)	At least 14 days prior to public hearings		At least 14 days prior to public hearings
Vested rights certificate (Section 2.4.22)		At least 10 days prior to public hearing	
Beneficial use determination (Section 2.4.23)		[2]	
Wellfield exemption permit (Section 2.4.24)	At least 14 days prior to public hearing	At least 10 days prior to first and second public hearings	At least 14 days prior to public hearing

Development agreement <u>(Section 2.5)</u>	At least 14 days prior to PZB public hearing. At least 14 days prior to first and second City Commission public hearings	At least 10 days prior to first and second public hearings	
[1] When multiple application types are processed simultaneously, notice requirements for each application type shall apply.			
[2] Notification of beneficial use determination hearings is at the discretion of the hearing officer.			

(F) *Notice requirements for continued hearings.* In the event that a required public hearing is opened and subsequently continued to a date certain by a review or decision-making body, additional public notice is not required unless a period of six weeks (42 calendar days) or more elapses between hearing dates.

(G) *Registration to receive notice by mail.* Biannually, any person, neighborhood organization, or other organization in the City may register with the LDR Administrator to receive written notice of all applications in accordance with Subsection 2.2.9(B) of this section, Written (mailed) notice. To be eligible for registration, the applicant shall provide the LDR Administrator information in the form required by the LDR Administrator to ensure notification can be made to the organization, along with a fee to defray the costs.

2.2.10 *Deferral of application.*

(A) *Request prior to publication of notice.* An applicant may request that a review or decision-making bodies' consideration of an application at public hearing be deferred by submitting a written request for deferral to the LDR Administrator prior to the publication of notice for the public hearing (Subsection 2.2.9(C) of this section, Published notice). The LDR Administrator may grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted.

(B) *Request after publication of notice.* If a request for deferral of consideration of an application by a review or decision-making body is submitted subsequent to publication of notice, the request for deferral shall be placed on the public hearing agenda and acted upon by the review or decision-making body. The review or decision-making body may grant such requests for good cause. The date of the public hearing at which the application will be heard shall be set at the time the deferral is granted. If a deferral is granted, the application may be subject to additional application fees to defray the costs of processing the application, and, any notice requirements.

2.2.11 *Changes to application after notice of public hearing.* After notice of public hearing has occurred, changes to an application (including changes to an application at the public hearing) not made solely to satisfy staff or review body recommendations or conditions shall be governed by the provisions of this section.

(A) *Major changes.* No substantive changes may be made in major elements of the development proposal relating to uses, densities, intensities and/or access, without referral of the application as amended back to the City staff for evaluation and preparation of a staff report, in accordance with Subsection 2.2.7 of this section, Preparation of staff report, and to any other relevant review or decision-making bodies in the same manner as is required for the original submittal of

the application.

- (B) *Conditions and development standards.* Proposed changes in conditions and development standards may be considered without referral back to staff or other relevant review bodies, provided the changes do not constitute a major substantive change in the proposal in the determination of the body with decision-making authority over the application.

2.2.12 *Withdrawal of application.*

- (A) *Submission of request.* Any request for withdrawal of an application subject to a public hearing shall be submitted in writing to the LDR Administrator, or shall be made through a verbal request at a public hearing.
- (B) *Prior to notice of public hearing.* The LDR Administrator shall approve a request for withdrawal of an application, if it has been submitted prior to public notification on the application in accordance with Subsection 2.2.9 of this section, Public notification.
- (C) *Subsequent to notice of public hearing.* If the request for withdrawal of an application is submitted subsequent to public notification (Subsection 2.2.9 of this section, Public notification), the request for withdrawal shall be placed on the public hearing agenda and acted upon by the review or decision-making body.
- (D) *Administrative withdrawal of applications.* During staff review, the applicant shall be notified of any deficiencies and given adequate time to respond. If the applicant fails to respond to the noted deficiencies within 180 days of date of notification by staff, the application shall be considered withdrawn. Upon a showing of good cause, the Land Development Regulations Administrator may extend the deadline for response for an additional 45 days.
- (E) *Fees.* Fees shall be refunded for withdrawn applications only in accordance with Subsection 2.2.2(C) of this section, Fees.

2.2.13 *Review by LDR Administrator.* When an application for development permit is not subject to a public hearing, but is reviewed by the LDR Administrator, it shall be reviewed in accordance with the following procedures:

- (A) *Staff report.* Preparation of a staff report is optional, at the discretion of the LDR Administrator, and shall be governed by Subsection 2.2.7(B) of this section, Application reviewed by LDR Administrator.
- (B) *Review.* After the application is determined complete (Subsection 2.2.6 of this section, Determination of completeness), the LDR Administrator shall review the application and approve, approve with conditions, or deny the application, based on the appropriate review standards for the particular development permit.

2.2.14 *Conditions of approval.*

- (A) *Generally.* When a decision-making body or the LDR Administrator may, according to the express terms of these LDRs, approve a permit or development approval with conditions, such body or LDR Administrator may impose restrictions and conditions on the approval. The conditions may, as appropriate, ensure compliance with the goals, objectives, and policies of the Comprehensive Plan or with particular standards of these LDRs, to prevent or minimize adverse effects from the proposed development on surrounding lands.
- (B) *Limitations.* The restrictions and conditions imposed must be related in both type and amount to the impact that the proposed development would have on the public and surrounding development. All conditions imposed shall be expressly set forth in the development permit approval.

2.2.15

Lapse of approval (expiration).

- (A) *Generally.* Lapse of approval (also referred to as "expiration") shall occur as provided by these LDRs for the various types of development permits. If no provision for lapse is given by these LDRs for a particular type of development permit, and if no lapse period is imposed as part of an approval by the decision-making body, lapse shall occur if development is not commenced or a subsequent development permit is not obtained within one year.
- (B) *Extension.* Upon written application submitted at least 30 days prior to the expiration of the development permit period by the applicant, and upon a showing of good cause, the decision-making body or LDR Administrator, as applicable to the original application approval, may grant one extension not to exceed six months; provided however, that if a different time frame is otherwise established within these LDRs for a specific development permit, such timeframe for the specific development permit shall apply. The development permit approval shall be deemed extended until the decision-making body or LDR Administrator has acted upon the request for extension. Failure to submit an application for an extension within the time limits established in the development permit, appeal, or by this section shall result in the lapse of approval.

2.2.16 *Waiver of time limit.*

- (A) *Generally.* Whenever any application for a development permit requiring a public hearing is denied, an application for all or a part of the same land shall not be considered for a period of one year after the date of denial unless a waiver of time limit is subsequently approved by the decision-making body in accordance with the requirements of this section. Only one request for waiver of time limit may be submitted by the applicant during the one-year period.
- (B) *Waiver of time limit initiation.*
 - (1) *Owner or authorized agent.* Only the owner of land or the owner's authorized agent may submit a request for waiver of time limit.
 - (2) *Initiation.* A request may be initiated by the owner or the owner's authorized agent by submitting a request for waiver of time limit to the LDR Administrator, along with a fee to defray the cost of processing the request.
- (C) *Action.* At the meeting for which the request for waiver of time limit is scheduled, the decision-making body shall consider the request, other relevant support materials, information provided by the applicant, the applicant's representative, and the public, and approve or deny the request based on the standards in Subsection 2.2.16(D) of this section, Waiver of time limit standards.
- (D) *Waiver of time limits standards.* The waiver of time limit shall be approved only upon a finding by simple majority or more of the membership of the decision-making body that substantial evidence is presented that demonstrates:
 - (1) *Substantial change in circumstances.* There is a substantial change in circumstances relevant to the issues and/or facts considered during review of the application that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed in the application;
 - (2) *New or additional information.* New or additional information is available that was not available at the time of the review that might reasonably affect the decision-making body's application of the relevant review standards to the development proposed;
 - (3) *New application materially different.* A new application is proposed to be submitted that is materially different from the prior application; or

(4) *Material mistake of fact.* The final decision on the application was based on a material mistake of fact.

- 2.2.17 *Simultaneous processing of applications.* Whenever two or more forms of review and approval are required under these LDRs, the applications for those permits or approvals may, at the option of the LDR Administrator, be processed simultaneously, so long as all applicable State and local requirements are satisfied. Site plans, infrastructure plans, and major or minor subdivision plats shall not be processed concurrently with applications for text amendments (Section 2.4.1) or site-specific amendments to the Official Zoning Atlas (Section 2.4.2) or planned developments (Section 2.4.3).
- 2.2.18 *Relationship to the Comprehensive Plan.* If the approval of an application for development permit requires prior amendment of the Comprehensive Plan, action on the amendment to the City's Comprehensive Plan shall be taken prior to action on the application for development permit requiring the amendment. This provision shall not prohibit the concurrent review of the application and consideration of a Comprehensive Plan amendment.
- 2.2.19 *Notification of decision.* Within 30 days after a decision on an application for development permit, the LDR Administrator shall notify the applicant of the decision by mail. Within 30 days after the decision, a copy of the decision shall also be made available to the public at the offices of the LDR Administrator, during normal business hours.
- 2.2.20 *Examination and copying of application.* At any time upon reasonable request and during normal business hours, any person may examine an application, the staff report, and materials submitted in support or opposition to an application for development permit on file in the office of the LDR Administrator. Copies of such material shall be made available at a reasonable cost.

(Ord. No. 09-30, § 3, 9-28-2009; Ord. No. 14-08, § 3(Exh. A), 9-8-2014; Ord. No. 18-08, § 3(Exh. A), 4-9-2018; Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

Footnotes:

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Note— Any additional procedures or aspects unique to a particular development permit are located in the appropriate subsection dealing with that type of development permit in Section 2.4, Specific requirements for applications. The general provisions of this section shall apply to all applications for development permit under these LDRs, unless otherwise stated.

Sec. 2.3. - Public hearing procedures.

2.3.1 *Quasi-judicial public hearings.* All quasi-judicial hearings on applications for development approvals (Table 2.2-1, Required Public Hearings) shall comply with the procedures set forth in this subsection.

(A) *Testimony and evidence.*

- (1) *Information, witnesses, evidence or questions.* Any member of the review or decision-making body may request information, call witnesses, submit evidence, or ask questions of any person that testifies during the hearing.
- (2) *Opportunity to present testimony and evidence.* Any affected party shall be afforded a reasonable opportunity to present testimony and evidence in support of or in opposition to the application, and to ask questions of the applicant and the applicant's representatives and City staff and City staff's representatives. At the discretion of the Chair of the review or decision-making body, an affected party may be granted an opportunity to ask questions of

any other member of the public who has testified at the hearing.

(3) *Not bound by rules of evidence.* The decision-making body is not bound by the rules of evidence, or limited to consideration of evidence that is admissible in a court of law in a quasi-judicial hearing. The body may consider all testimony and evidence it deems relevant, material and competent to the application under consideration. The Chair of the body may exclude testimony or evidence that is determined irrelevant, immaterial, incompetent, unreliable or unduly repetitious.

(B) *Burden of proof.* The burden of demonstrating that an application complies with applicable review and approval standards of these LDRs is on the applicant, which shall be demonstrated by competent substantial evidence. The burden is not on the City or other parties to show that the standards have not been met by the applicant.

(C) *Establishment and maintenance of record.* The office of the City Clerk shall keep and maintain the record of all quasi-judicial hearings, which shall consist of:

- (1) The application for development permit under consideration (Section 2.2.5);
- (2) The staff report (Section 2.2.7);
- (3) All other written City staff materials prepared on the application (Section 2.2.7);
- (4) All other written materials provided to the LDR Administrator by affected parties or the public that are related to the application (Section 2.2.9);
- (5) The review board recommendation, where relevant, and the record from the review board proceedings on the application (Section 2.2.8);
- (6) These LDRs;
- (7) The Comprehensive Plan;
- (8) All written communications received by members of the review or decision-making body and City staff about the application;
- (9) Curriculum vitae of all City staff and City representatives who testify at the hearing;
- (10) All documents entered into the record at the hearing (this Subsection 2.3.1(C)); and
- (11) The testimony and other statements and opinions offered at the public hearing, which shall be recorded.

(D) *Order of proceedings.* The order of the quasi-judicial hearing shall be as follows:

- (1) *Swearing in.* Swearing of all persons who will testify at the hearing.
- (2) *Ex parte disclosure.* Disclosure of all ex parte communications by review or decision-making body members.
- (3) *Description of proposal.* Staff will provide an introduction of the application, include a brief narrative and/or graphic description of the application.
- (4) *Applicant presentation.* This shall include applicant's presentation of any testimony and evidence, including testimony of witnesses and expert witnesses. Further examination by members of the review or decision-making body shall be allowed after each witness. Cross examination by the City and affected parties is also allowed, including questioning of LDR Administrator, City staff and City witnesses.
- (5)

Affected parties' presentation. This shall include affected parties' presentation of any testimony and evidence, including testimony of witnesses and expert witnesses. Further examination by members of the review or decision-making body shall be allowed after each witness. Cross examination by the applicant and City is allowed.

- (6) *LDR Administrator presentation of staff report.* This includes a presentation of the staff report and its written recommendation, and presentation of additional witnesses, including expert witnesses, if appropriate. The recommendation in the staff report shall address each standard required to be considered by these LDRs prior to approval of the application. Questioning of LDR Administrator, City staff, and witnesses by review or decision-making body, and the applicant, and affected parties, as appropriate.
 - (7) *Public comment and testimony.* First those in support of the application and then those in opposition to the application are allowed to speak and enter testimony and evidence into the record.
 - (8) *Rebuttal.*
 - (a) Affected parties' rebuttal, if appropriate.
 - (b) Applicant's rebuttal, if requested.
 - (c) LDR Administrator and City staff rebuttal, if requested.
 - (9) *Conclusion.*
 - (a) Affected parties conclusion, if any.
 - (b) City conclusion.
 - (c) Applicant conclusion.
 - (10) *Deliberation, continuance or vote.* Deliberation, continuance or vote by review or decision-making body.
- (E) *Information by member.* Any member of the review or decision-making body may request information, call witnesses, or ask questions of any person that testifies during the hearing. All questions shall be directed through the Chair.
- (F) *Length of presentation and testimony.* The length of presentations and testimony shall be established by the Chair of the review or decision-making body (whichever is appropriate). The Chair may place reasonable and equitable limitations on any presentation or discussion to avoid undue delay.
- (G) *Cross examination.* The inquiry under cross examination shall be limited to matters raised in the direct examination of the witness.
- (H) *Redirect and re-cross.* No redirect or re-cross shall be allowed unless it is requested by the applicant, an affected party, or the City, who shall state the desired area of inquiry, and the request is approved by the Chair of the review or decision-making body (whichever is appropriate). If redirect or re-cross is allowed, it shall be limited to questions of the witness on issues raised in the cross examination.
- (I) *Objections.* The applicant, any affected party, or a member of the review or decision-making body (whichever is appropriate) may raise evidentiary objections, which shall be ruled upon by the Chair.
- (J)

Public comment. Any person who is not an affected party may be permitted to speak for up to five minutes in support of or in opposition to the application. At the discretion of the Chair of the review or decision-making body (whichever is appropriate), a member of the public may be granted additional time to speak when it is justified. The applicant, an affected party, nor their witnesses or representatives shall be permitted to speak during the public comment portion of the hearing.

(K) *Continuance.*

- (1) The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time and place. An applicant shall have the right to request and be granted one continuance; however, all subsequent continuances shall be granted at the discretion of the body conducting the public hearing only upon good cause shown.
- (2) A public hearing for which proper notice was given may be continued to a later date without again complying with the notice requirements of this section, provided the continuance is set for a date within 45 days, and the date and time of the continued hearing is announced at the time of the continuance.

(L) *Action by decision-making body.*

- (1) Upon receipt of all testimony and evidence in accordance with this section, the quasi-judicial hearing shall be closed. No additional testimony, evidence, or public comments will be heard or considered after the close of the public hearing.
- (2) Upon the close of the public hearing, the review or decision-making body shall consider the application, the relevant support materials, the staff report, all review board recommendations (if relevant), and the public testimony and other evidence given at the public hearing and make a recommendation or decision on the application (whichever is appropriate), based on the relevant review standards. The form of the decision shall include at least the following elements:
 - (a) A list of the evidence presented.
 - (b) Findings of fact.
 - (c) Conclusions of law.
 - (d) A finding of compliance or noncompliance with the Comprehensive Plan.
 - (e) Application of the facts to the relevant review standards.
 - (f) The decision.
 - (g) The reasons for the decision.
 - (h) Any conditions of approval (if appropriate).
- (3) Notification regarding the decision shall be provided by the LDR Administrator in accordance with Section 2.2.19, Notice of decision.

2.3.2 *Standard public hearings.* All public hearings on applications for development permit (Table 2.2-1, Required Public Hearings) which are not Quasi-judicial public hearings shall be considered as standard public hearings, and shall comply with the procedures set forth in this subsection.

(A)

Burden of proof. The burden of demonstrating that an application complies with applicable review and approval standards is on the applicant. The burden is not on the City or other parties to show that the standards have not been met by the applicant.

(B) *Conduct of the hearing.*

- (1) *Rights of all persons.* Any person may appear at a public hearing, or may be represented by counsel or agent, and may submit documents, materials, and other written or oral testimony either individually or as a representative of an organization. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization being represented.
- (2) *Presentation of testimony and submission of documents and materials.* The body conducting the public hearing may place reasonable time restrictions on the presentation of testimony and the submission of documents and other materials.
- (3) *Continuance of hearing.* The body conducting the hearing may, on its own motion or at the request of any person, continue the hearing to a fixed date, time and place. An applicant shall have the right to request and be granted one continuance. All subsequent continuances requested by an applicant shall be granted at the discretion of the body granting the public hearing only on good cause shown.

(C) *Order of proceedings.* The order of proceedings at the public hearing shall be as follows:

- (1) The LDR Administrator shall present a narrative or graphic description of the application.
- (2) The applicant shall present any information the applicant deems appropriate.
- (3) The LDR Administrator shall present the staff report, which includes a written recommendation. This recommendation shall address each standard required to be considered by these LDRs prior to approval of the application.
- (4) Public testimony shall be heard.
- (5) The applicant may respond to any testimony or evidence presented by the public.
- (6) The LDR Administrator may respond to any statement made by the applicant or public.

(D) *Record of public hearing.* The review or decision-making body conducting the hearing shall record the proceedings by any appropriate means, and the record shall consist of:

- (1) The application for development permit under consideration (Section 2.2.5);
- (2) The staff report (Section 2.2.7);
- (3) All other written City staff materials prepared on the application (Section 2.2.7);
- (4) All other written materials related to the application provided by the public (Section 2.2.9);
- (5) The review board recommendation, where relevant, and the record from the review board proceedings on the application (Section 2.2.8);
- (6) These LDRs;

- (7) The Comprehensive Plan;
- (8) All documents entered into the record at the hearing (this Subsection 2.3.2(D)); and
- (9) The record of the hearing recorded by the review board, if relevant (Section 2.2.8).

If a sound recording is made, any person shall be entitled to listen to the recording at a reasonable time, or make copies at that person's own expense, at the offices of the City Clerk.

(E) *Action by decision-making body.* The decision making body shall render its decision within 30 days. Unless stated otherwise in these LDRs, the form of the decision shall include at least the following elements:

- (1) A clear statement of the factors considered in the decision, and a statement of the basis upon which such facts were applied to the relevant review standards.
- (2) A statement of a recommendation or decision of approval, approval with conditions, or denial (whichever is appropriate).

Notification regarding the decision shall be provided by the LDR Administrator in accordance with Section 2.2.19, Notice of decision.

Sec. 2.4. - Specific requirements for applications for development permits.

2.4.1 *Text amendments and general amendments to Official Zoning Atlas.*

- (A) *Purpose.* The purpose of this section is to provide a means for amending the text of these LDRs or making a general amendment to the Official Zoning Atlas.
- (B) *Authority.* The City Commission may adopt an ordinance amending the text of these LDRs or a general amendment to the Official Zoning Atlas upon compliance with the provisions of this section.
- (C) *Initiation.*

- (1) *Amendment to the text of LDRs.* An application to amend the text of these LDRs may be initiated by the City Commission, the PZB, the BOA, the LDR Administrator, any department or board of the City, or a person who may submit applications in accordance with Section 2.2.1, Authority to file applications.
- (2) *General amendment to Official Zoning Atlas.* An application for a general amendment to the Official Zoning Atlas may be initiated by the City Commission, the PZB, the LDR Administrator, or a person who may submit applications in accordance with Section 2.2.1, Authority to file applications.

(D) *Procedures.*

- (1) *Application review, notification and scheduling hearing.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
- (2) *Review and recommendation by PZB.* After preparation of a staff report, public notification, and the scheduling of the public hearing, the application shall be referred to the PZB by the LDR Administrator. The PZB shall conduct a public hearing on the application in accordance with Section 2.3.2, Standard public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, the testimony given at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to approve or deny the application based on the standards in Subsection 2.4.1(E) of this section, Standards. The PZB shall then forward the report to the City Commission.
- (3) *Review and action by City Commission.* After receipt of the report from the PZB, public notification, and the scheduling of the public hearings, the City Commission shall consider the application during the two public hearings conducted in accordance with Section 2.3.2, Standard public hearings. At the first public hearing, the City Commission shall review the application, the relevant support materials, the staff report, the report of the PZB, and the testimony

given at the hearing. At the second public hearing, the request and any subsequent information or materials received after the first public hearing shall be considered. After the close of the second hearing, the City Commission shall either adopt an ordinance amending the text of these LDRs or the Official Zoning Atlas (whichever is appropriate), or deny the application, based on the standards of Subsection 2.4.1(E) of this section, Standards.

(E) *Standards.*

- (1) *Text amendments.* Amending the text of these LDRs is a matter committed to the legislative discretion of the City Commission. In determining whether to adopt or deny the proposed amendment, the City Commission shall consider and weight the relevance of the following factors:
 - (a) *Consistent with Comprehensive Plan.* Whether and the extent to which the proposed amendment is consistent with the Comprehensive Plan.
 - (b) *Consistent with ordinances.* Whether the proposed amendment is in conflict with any provision of these LDRs or the City Code of Ordinances.
 - (c) *Changed conditions.* Whether and the extent to which there are changed conditions that require an amendment.
 - (d) *Community need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.
 - (e) *Compatible with surrounding uses.* Whether and the extent to which the proposed amendment is consistent with the purpose and intent of the zone districts in these LDRs, or will improve compatibility among uses and will ensure efficient development within the City.
 - (f) *Development patterns.* Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.
 - (g) *Effect on natural environment.* Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
 - (h) *Public facilities.* Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water, sewage, stormwater management, parks, and solid wastes).
- (2) *General amendments to Official Zoning Atlas.* General amendments to the Official Zoning Atlas are a matter committed to the legislative discretion of the City Commission. In determining whether to adopt or deny the proposed amendment, the City Commission shall consider and weigh the relevance of the following factors:
 - (a) *Consistent with Comprehensive Plan.* Whether and the extent to which the proposed amendment is consistent with the Comprehensive Plan.
 - (b) *Changed conditions.* Whether and the extent to which there are changed conditions that require an amendment.
 - (c) *Compatible with surrounding uses.* Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zone district for the land.
 - (d) *Development patterns.* Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern, or deviate from logical and orderly development patterns.
 - (e) *Premature development.* Whether and the extent to which the proposed amendment would encourage premature development.

- (f) *Strip or ribbon commercial development.* Whether and the extent to which the proposed amendment would result in strip or ribbon commercial development.
- (g) *Isolated zone district.* Whether and the extent to which the proposed amendment will result in the creation of an isolated zone district unrelated to adjacent and surrounding zone districts.

- (h) *Property values.* Whether and the extent to which the proposed amendment will result in significant adverse impacts on the property values of surrounding lands.
- (i) *Effect on population density.* Whether and the extent to which the proposed amendment would result in substantial increases in population density beyond the City's ability to address adverse impacts from such increases.
- (j) *Effect on natural environment.* Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including, but not limited to, light, water, air, noise, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
- (k) *Public facilities.* Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water, sewage, parks, stormwater management and solid waste facilities).

2.4.2 Site-specific amendments to Official Zoning Atlas.

- (A) *Purpose.* The purpose of this subsection is to provide a means for making a site-specific amendment to the Official Zoning Atlas.
- (B) *Authority.* The City Commission may adopt an ordinance amending the Official Zoning Atlas upon compliance with the provisions of this section.
- (C) *Initiation.* An application for a site-specific amendment to the Official Zoning Atlas may be initiated by the City Commission, the PZB, the LDR Administrator, or a person who may submit applications in accordance with Section 2.2.1, Authority to file applications.
- (D) *Procedures.*
 - (1) *Preapplication conference, application review, notification, and scheduling hearing.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
 - (2) *Review and recommendation by PZB.* After preparation of a staff report, public notification, and the scheduling of the public hearing, the application shall be referred to the PZB by the LDR Administrator. The PZB shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, the testimony and evidence given at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to approve or deny the application based on the standards in Subsection 2.4.2(E) of this section, Standards for site-specific amendments to the Official Zoning Atlas. The PZB shall then forward the report to the City Commission.
 - (3) *Review and action by City Commission.* After receipt of the report from the PZB, public notification, and the scheduling of the public hearing, the City Commission shall consider the application at two public hearings conducted in accordance with Section 2.3.1, Quasi-judicial public hearings. At the first public hearing, the City Commission shall review the application, the relevant support materials, the staff report, the report of the PZB, and the testimony and evidence given at the hearing. At the second public hearing, the request and any subsequent information or materials received after the first hearing shall be considered. After the close of the second hearing, the City Commission shall either adopt an ordinance amending the Official Zoning Atlas, or deny the application, based on the standards of Subsection 2.4.2(E) of this section, Standards for site-specific amendments to the Official Zoning Atlas.

(E) *Standards for site-specific amendments to the Official Zoning Atlas.* The advisability of making a site-specific amendment to the Official Zoning Atlas is a matter subject to quasi-judicial review by the City Commission and constitutes the implementation of the general land use policies established in these LDRs and the Comprehensive Plan. In determining whether to approve a proposed site-specific amendment to the Official Zoning Atlas, the City Commission shall find that:

- (1) *Competent substantial evidence provided.* The applicant has provided competent substantial evidence that is made part of the record of the hearing that:
 - (a) *Consistent with Comprehensive Plan.* The proposed amendment is consistent with and furthers the goals, objectives and policies of the Comprehensive Plan.
 - (b) *Consistent with ordinances.* The proposed amendment is not in conflict with any portion of these LDRs or any of the City Code of Ordinances.
 - (c) *Logical development pattern.* The proposed amendment would result in a logical and orderly development pattern.
 - (d) *Premature development.* The proposed amendment will not create premature development in undeveloped or rural areas.
 - (e) *Incompatible with adjacent lands.* The uses permitted by the proposed amendment are not incompatible with existing land uses of adjacent lands and/or the uses permitted by the zone district classifications of adjacent lands.
 - (f) *Adverse effect on local character.* The proposed amendment will not adversely effect the character of the general area where it is proposed to be located by creating excessive traffic, density and/or intensities of use, building height and bulk, noise, lights or other physical effects or nuisances.
 - (g) *Not deviate from pattern of development.* The uses permitted by the proposed amendment will not deviate from the development pattern (both established and as proposed by surrounding zone districts) of the area where the proposed amendment is located.
 - (h) *Encourage sprawl.* The proposed amendment will not encourage urban sprawl, either by resulting in strip or ribbon commercial development, leap-frog development or low-density single dimensional development.
 - (i) *Spot zoning.* The proposed amendment will not result in the creation of an isolated zone district unrelated to adjacent and surrounding zone districts (spot zoning).
 - (j) *Public facilities.* The proposed amendment will not result in development in a location where there are no plans by the City or other governmental entities to provide public facilities to serve the development (roads, potable water, wastewater, parks, stormwater management, and solid wastes), and there are no assurances by the private sector that public facilities are planned and will be available to adequately accommodate development.
 - (k) *No adverse effect on the environment.* The proposed amendment would not result in significantly adverse impacts on the natural environment, including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment.

2.4.3 *Planned development.*

- (A) *Generally.* This subsection establishes the procedures for review of the City's Planned Development (PD) Zone Districts: Planned Development-Residential (PD-R), Planned Development-Commercial (PD-COMM), Planned Development-Employment Center (PD-EC) and Planned Development-Traditional Neighborhood Development (PD-TND).

(B) *Location.* A PD zone district classification may be established on any land that complies with all of the applicable standards of this section.

(C) *Unified ownership or control.* To ensure unified control, copy of the title to all land that is part of a proposed PD zone district classification shall be provided, and all owners of the land shall sign the planned development application to indicate their support for the application and willingness to be bound by any conditions of approval.

(D) *PD zone district classification and PD Master Plan.*

(1) *Procedure.*

(a) *Generally.* A PD zone district classification shall constitute a site-specific amendment to the Official Zoning Atlas (rezone) (Subsection 2.4.2 of this section). It shall be controlled by a PD Master Plan and PD agreement. The procedure requires approval of a PD zone district classification, PD Master Plan, and PD agreement (Subsection 2.4.3(D)(3) of this section), and then a final PD plan (Subsection 2.4.3(E) of this section). Subsequent to approval of a PD zone district classification, PD Master Plan and PD agreement, an approved site plan shall be considered as the final PD plan for the portion of the planned development subject to the site plan (Subsection 2.4.9 of this section).

(b) *Preapplication conference, application submission, review, public notification, and scheduling hearing.* The procedures and requirements for submission and review of an application are established in [Section 2.2](#), Common development review procedures.

(c) *Review and recommendation by PZB.* After preparation of a staff report, public notification, and the scheduling of the public hearing, the application shall be referred to the PZB by the LDR Administrator. The PZB shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, the testimony and evidence given at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to approve, approve with conditions, or deny the application based on the standards in Subsection 2.4.3(D)(2) of this section, Planned development standards. The PZB shall then forward the report to the City Commission.

(d) *Review and action by City Commission.* After receipt of the report from the PZB, public notification, and the scheduling of the public hearing, the City Commission shall consider the application at two public hearings conducted in accordance with Section 2.3.1, Quasi-judicial public hearings. At the first public hearing, the City Commission shall review the application, the relevant support materials, the staff report, the report of the PZB, and the testimony and evidence given at the hearing. At the second public hearing, the request and any subsequent information or materials received after the first public hearing shall be considered. After the close of the second public hearing, the City Commission shall either adopt an ordinance amending the Official Zoning Atlas to a PD zone district classification, modify or approve the application with conditions, or deny the application, based on the standards of Section 2.4.3(D)(2), Planned development standards.

(2) *Planned development standards.* A PD zone district classification, PD Master Plan, and PD agreement shall comply with the standards in Subsection 2.4.2(E) of this section, Standards for site-specific amendments to Official Zoning Atlas and the standards for PD districts in [Section 3.6](#), Planned development (PD) districts.

(3) *PD agreement.* Concurrent with the approval of the adopting ordinance and the PD Master Plan, PD terms and conditions shall be established binding the

planned development to any conditions placed in the adopting ordinance and PD Master Plan. The PD agreement shall include, but are not limited to:

- (a) *PD Master Plan.* The PD Master Plan.
 - (b) *Conditions.* Conditions related to the approval of the PD Master Plan.
 - (c) *Provisions governing public facilities.* Provisions governing how transportation, potable water, wastewater, stormwater management, park, and other public facilities will be provided to accommodate the development proposed in the PD Master Plan.
 - (d) *Provisions related to environmental protection.* Standards, conditions, or other provisions related to protection of light, water, air, wildlife, vegetation, wetlands and the natural functioning of the environment.
 - (e) *Other provisions related to future development of PD.* Standards, conditions, or other provisions related to future applications for development permit or responsibilities of the landowners within the PD Master Plan.
- (4) *Conditions of approval.* In approving a PD zone district classification, a PD Master Plan, and PD agreement, the City Commission may impose appropriate conditions on the approval in accordance with Section 2.2.14, Conditions of approval.
- (5) *Placement of planned development district (PD) classification on Official Zoning Atlas.* After final approval of the adopting ordinance for the PD zone district classification, the PD Master Plan, and PD agreement, the LDR Administrator shall amend the Official Zoning Atlas to show a PD zone district classification.
- (6) *Recordation.* The applicant shall record the adopting ordinance, the PD Master Plan and the PD agreement with the Alachua County Clerk of Court. They shall be binding upon the landowners, their successors and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, density, configuration, and all other elements and conditions set forth on the PD Master Plan and in the PD agreement. The applicant shall submit proof to the LDR Administrator that the adopting ordinance, PD Master Plan, and PD agreement have been recorded with the Alachua County Clerk of Court within six months of its approval or the adopting ordinance, PD Master Plan, and PD agreement shall automatically and immediately be rendered invalid and the land shall return to its prior zone district classification. No further applications for development permit shall be review for the planned development until the adopting ordinance, PD Master Plan, and PD agreement have been recorded in accordance with this subsection.
- (7) *Expiration.*
- (a) *Generally.* The approval of the adopting ordinance for a PD zone district classification, the PD Master Plan, and PD agreement shall expire unless an application for a final PD plan for any part or section of the plan for development shown on the PD Master Plan is submitted within one year of approval. (See Subsection 2.4.3(E) of this section.) Such time period shall not be extended with transfer of ownership.
 - (b) *Extension.*
 - (i) Upon written application submitted at least 30 days prior to the expiration of the permit period by the applicant, and upon a showing of good cause, the City Commission may grant an extension not to exceed six months for the submission of a final PD plan. The approval shall be deemed extended until the City Commission has acted upon the request for extension.
 - (ii)

If the PD final plan is not submitted within the time established in the extension, the City Commission, prior to the time the extension will expire, shall determine if either one additional six month extension be granted, for good cause, or the land be rezoned to its prior zone district classification.

- (c) *Expiration.* Failure to submit a final PD plan within the time limits established by this section shall result in expiration of the PD zone district classification, the PD Master Plan, and the PD agreement, and the prior zone district classification shall thereupon be reestablished.
- (8) *Minor deviations.* A minor deviation to a PD Master Plan and/or PD agreement shall not be considered as an amendment, and shall be approved by the LDR Administrator. The minor deviation shall comply with the standards of these LDRs. A minor deviation shall be limited to technical considerations which could not reasonably be anticipated during the approval process or any other change which has no material effect on the character of the approved PD development or any of its approved terms or conditions. The following shall constitute minor deviations:
- (a) *Driveway relocations.* Driveway relocations.
 - (b) *Structure floor plan revisions.* Structure floor plan revisions.
 - (c) *Facility design modifications.* Facility design modifications for amenities and the like.
- Changes that materially affect the basic concept of the PD Master Plan are not considered minor deviations, and shall only be changed as amendments to the PD Master Plan and/or the PD agreement (Subsection 2.4.3(D)(9) of this section).
- (9) *Amendments.*
- (a) *Generally.* If an applicant determines it is necessary to alter the concept or intent of the PD Master Plan and/or the PD agreement, the PD Master Plan and/or PD agreement shall be amended, extended or modified only in accordance with the procedures and standards for its original approval.
 - (b) *Amendments defined.* The following items are considered an alteration of the concept or intent of the PD Master Plan or PD agreement:
 - (i) Changes in use designations;
 - (ii) Density/intensity increases;
 - (iii) Decreases in open space;
 - (iv) Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development are moved so traffic flows both inside and outside the development are affected);
 - (v) Change in the proportion of housing types by more than 15 percent; or
 - (vi) Violation of any specific condition of the PD agreement.

(E) *Final PD plan.*

- (1) *Submittal of PD final plan.* Within one year of the approval of a PD zone district classification, PD Master Plan, and PD agreement, the applicant shall submit a PD final plan for any part or section of the plan for development shown in the PD Master Plan. If the PD final plan is not submitted within one year, the PD zone district classification, PD Master Plan, and PD agreement shall expire and be void, and the land shall revert back to its original zone district

classification. The PD final plan shall implement the PD Master Plan. For the purposes of these LDRs, the PD final plan shall mean either site plan (Subsection 2.4.9 of this section) or major subdivision preliminary plat (Subsection 2.4.10(G) of this section) approval, whichever is appropriate.

- (2) *Standards.* In addition to complying with the relevant standards for site plan (Subsection 2.4.9 of this section) or major subdivision preliminary plat (Subsection 2.4.10(G) of this section), whichever is appropriate, the PD final plan shall also conform to the PD Master Plan and the PD agreement.
- (3) *Expiration.* If the initial PD final plan expires in accordance with the expiration provisions for site plans (Subsection 2.4.9(G) of this section) or major subdivision preliminary plat (Subsection 2.4.10(G)(3)(h) of this section), whichever is appropriate, the PD zone district classification, PD Master Plan, and PD agreement shall expire and be void, and the land shall revert back to its original zone district classification.

2.4.4 *Special exception permit.*

- (A) *Purpose.* The purpose of this subsection is to provide a means for reviewing applications for approval of uses allowed as special exceptions. These are uses that are generally compatible with the other uses permitted in a zone district, but require individual review of their location, design, configuration, density, intensity, and public facility impact to determine the appropriateness of the use on any particular site in the district and their compatibility with adjacent uses. Special exception uses may require the imposition of conditions to ensure the appropriateness of the use at a particular location.
- (B) *Authority.* The City Commission is authorized to review and decide applications for special exception permits for a building consisting of greater than or equal to 80,000 square feet in area in accordance with this section. The PZB is authorized to review and decide applications for all other special exception permits in accordance with this section. Only those uses identified as special exceptions in Table 4.1-1, Table of Allowed Uses and Table 5.1-3, Table of Dimensional Standards in the Business Zoning Districts, for the CI and CP zoning districts, are authorized to be considered as special exceptions under this section. The designation of a use as a special exception in Table 4.1-1, Table of Allowed Uses or Table 5.1-3, Table of Dimensional Standards in the Business Zoning Districts, for the CI and CP zoning districts, does not constitute an authorization that such use shall be approved as a special exception permit in accordance with this section. Rather, each proposed special exception shall be evaluated for compliance with the standards set forth in this section and the applicable standards for the use in Section 4.3, Use specific standards, or Section 5.2.3(B), if appropriate.
- (C) *Procedure.*
 - (1) *Application submission, review, public notification, and scheduling hearing.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
 - (2) *Review and recommendation by PZB and review and action by City Commission on application for special exception permit for building greater than or equal to 80,000 square feet in area.*
 - (a) *Review and recommendation by PZB on application for special exception permit for building greater than or equal to 80,000 square feet in area.* After preparation of a staff report, public notification, and the scheduling of a public hearing, the PZB shall conduct a public hearing on the application for a special exception permit for a building greater than or equal to 80,000 square feet in area in accordance with Section 2.3.1, Quasi-judicial public

hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, and the testimony and evidence given at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to approve, approve with conditions, or deny the application based on the standards in Section 2.4.4(D), special exception standards.

(b)

Review and action by City Commission on application for special exception permit for building greater than or equal to 80,000 square feet in area. After receipt of the report from the PZB, public notification, and the scheduling of a public hearing for the application for a special exception permit for a building greater than or equal to 80,000 square feet in area, the City Commission shall consider the application during a public hearing in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the City Commission shall review the application, the relevant support materials, the staff report, the report of the PZB, and the testimony given at the hearing. After the close of the hearing, the City Commission shall either approve, approve with conditions, or deny the application based on the standards in Subsection 2.4.4(D) of this section, Special exception standards.

(3) *Review and action by PZB on application for special exception permit for uses other than building greater than or equal to 80,000 square feet in area.* After preparation of a staff report, public notification, and the scheduling of a public hearing, the PZB shall conduct a public hearing on the application for a special exception permit for uses other than a building greater than or equal to 80,000 square feet in area in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, and the testimony and evidence given at the public hearing. After the close of the public hearing, the PZB shall approve, approve with conditions, or deny the application based on the standards in Subsection 2.4.4(D) of this section, Special exception standards.

(D) *Special exception standards.* A special exception permit shall be approved only upon a finding the applicant demonstrates all the following standards are met:

- (1) *Complies with use specific regulations.* The proposed special exception complies with all relevant standards in Section 4.3, Use specific standards, or Section 5.2.3(B), as applicable.
- (2) *Compatibility.* The proposed special exception is appropriate for its location and compatible with the character of surrounding lands and the uses permitted in the zone district.
- (3) *Design minimizes adverse impact.* The design of the proposed special exception minimizes adverse effects, including visual impacts of the proposed use on adjacent lands; furthermore, the proposed special exception avoids significant adverse impact on surrounding lands regarding service delivery, parking and loading, odors, noise, glare, and vibration, and does not create a nuisance.
- (4) *Design minimizes environmental impact.* The proposed special exception minimizes environmental impacts and does not cause significant deterioration of light, water and air resources, wildlife habitat, stormwater management, scenic resources, and other natural resources.
- (5) *Roads and other public facilities.* There is adequate public facility capacity available to serve the proposed special exception, and the proposed special exception use is designed to ensure safe ingress and egress onto the site and safe road conditions around the site.
- (6) *Not injure neighboring land or property values.* The proposed special exception will not substantially injure the use of neighboring land for those uses that are permitted in the zone district, or reduce land values.
- (7) *Drawings.* A site plan (Subsection 2.4.9 of this section) or preliminary plat (Subsection 2.4.10(G)(3) of this section) has been prepared that demonstrates how the proposed special exception use complies with the other standards of this subsection.
- (8)

Complies with all other relevant laws and ordinances. The proposed special exception use complies with all other relevant City laws and ordinances, State and Federal laws, and regulations.

- (E) *Conditions of approval.* In approving a special exception permit, the PZB may impose appropriate conditions on the permit approval in accordance with Subsection 2.2.14 of this section, Conditions of approval.
- (F) *Denial.* If the PZB denies an application for a special exception permit, the record shall clearly indicate the reasons for denial.
- (G) *Effect.* Issuance of a special exception permit shall authorize only the particular special exception that is approved in the permit. A special exception permit, including any conditions, shall run with the land and shall not be affected by a change in ownership, unless specifically conditioned as part of the approval.
- (H) *Expiration.*
 - (1) *Generally.* The PZB may prescribe a time limit within which development shall begin or be completed on the special exception permit, or both. Failure to begin and/or complete such development within the time limit specified shall void the special exception permit. Unless specified otherwise by the PZB, a building permit shall be obtained for the development approved by the permit within 12 months from the date of approval, and development shall be completed on the building permit within the time allowed under the City's building regulations, or the special exception permit shall expire and be void. In cases where a building permit is not required to establish an approved special exception use, a certificate of LDR compliance (Subsection 2.4.15 of this section) shall be obtained within 12 months from the date of approval, or the special exception permit shall expire and be void.
 - (2) *Extension.* Upon written application submitted at least 30 days prior to the expiration of the permit period by the applicant, and upon a showing of good cause, the PZB may grant one extension not to exceed six months. The approval shall be deemed extended until the PZB has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall result in the expiration of the special exception permit.
- (I) *Amendments.* A special exception permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.
- (J) *Appeal of PZB decision on special exception permit.* Any person aggrieved or affected by a decision of the Planning and Zoning Board may appeal such decision to the City Commission in accordance with Subsection 2.4.21 of this section, Appeal of decisions of the Planning and Zoning Board.

2.4.5 *Historic Overlay (HO) District classification.*

- (A) *Purpose.* The purpose of this section is to provide a means for making a site-specific amendment to the Official Zoning Atlas (rezone) to classify an area as a Historic Overlay (HO) District.
- (B) *Authority.* The City Commission may adopt an ordinance amending the Official Zoning Atlas upon compliance with the provisions of this section.
- (C) *Initiation.* An application for a site-specific amendment to the Official Zoning Atlas may be initiated by the City Commission, the PZB, the LDR Administrator, or a person who may submit applications in accordance with Section 2.2.1, Authority to file applications.
- (D) *Approval of owners.* Applications for classification of a Historic Overlay (HO) District shall have the affirmative support of a majority of the landowners within the proposed district. For the purposes of this subsection, the term "affirmative support" shall mean written authorization to submit an application for a site-specific amendment to the Official Zoning Atlas from two-thirds or more of the landowners within the proposed district.
- (E) *Procedures.*
 - (1) *Preapplication conference, application review, notification, and scheduling hearing.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
 - (2) *Review and recommendation by PZB.* After preparation of a staff report, public notification, and the scheduling of the public hearing, the application shall be referred to the PZB by the LDR Administrator. The PZB shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, the testimony and evidence given at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to approve, approve with conditions, or deny the application based on the standards in Subsection 2.4.5(F) of this section, Standards. The PZB shall then forward the report to the City Commission.
 - (3) *Review and action by City Commission.* After receipt of the report from the PZB, public notification, and the scheduling of the public hearing, the City Commission shall consider the application during a public hearing conducted in accordance with Section 2.3.1, Quasi-judicial public hearings. At the hearing, the City Commission shall review the application, the relevant support materials, the staff report, the report of the PZB, and the testimony and evidence given at the hearing. After the close of the hearing, the City Commission shall either adopt an ordinance amending the Official Zoning Atlas, modify or approve the application with conditions, or deny the application, based on the standards of Subsection 2.4.5(F) of this section, Standards.
- (F) *Standards.* Amendments to the Official Zoning Atlas to classify land as a Historic Overlay (HO) District shall be made in accordance with the standards in Subsection 2.4.2(E) of this section, Standards for site-specific amendments to the Official Zoning Atlas, and Section 3.7.2(A)(2), Standards for designation of an HO district.

2.4.6 *Certificate of appropriateness.*

- (A) *Purpose.* The purpose of this subsection is to provide a mechanism for reviewing demolition, removal, relocation, new construction, additions, or alterations of exterior features on development within the Historic Overlay Districts to ensure they comply with the standards of this section.
- (B)

Authority. The PZB is authorized to review and decide applications for certificates of appropriateness, provided however that the LDR Administrator is authorized to review and decide applications for certificates of appropriateness as set forth in Subsection 2.4.6(E)(3), *Certificate of appropriateness (minor review)*, of this section.

(C) *Applicability.*

(1) *When required.* A certificate of appropriateness shall be required prior to any demolition, removal, relocation, new construction, additions, or alterations of exterior features in the Historic Overlay District, unless the activity is exempted in accordance with Subsection 2.4.6(D), Exemptions, of this section.

(D) *Exemptions.* The following activity shall be exempted from the requirements of this section (but is not exempted from other permits as may be applicable for the proposed activity, which may include but are not limited to a site plan, minor site plan, and/or building permit):

(1) *Repairs and maintenance with limited changes.* Ordinary maintenance or repair of any exterior architectural feature of buildings or structures that does not involve a change in design, material, color, or outer appearance of the building or structure; provided however that ordinary maintenance and repairs may change the material or color of a building facade when such repair or maintenance does not exceed five percent of the area of the facade.

(2) *Interior alterations.* Alterations to the interior of a building or structure, or alterations to the use of a building or structure, unless the interior of a particular building or structure is listed on the National Register of Historic Places.

(3) *Activity conducted under the CRA Business Façade Grant Program.* Activity which is being performed as part of the scope of work of a project reviewed and approved under the City's Community Redevelopment Agency (CRA) Business Façade Grant Program.

(4) *Residential additions, alterations, or demolitions not visible from street.* The demolition, removal, new construction, addition, or alteration of exterior features on existing residential buildings or residential structures, or any buildings or structures which are accessory to a residential use, when the building or structure is not visible from a street and when the building or structure is used exclusively for residential purposes. This exemption shall not apply to any building or structure listed on the National Register of Historic Places or to any buildings or structures listed as a contributing building to the City of Alachua Downtown Historic District.

(E) *Procedure.*

(1) *Application submission, review, public notification, and scheduling hearing.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.

(2) *Review and action by PZB.* Except as provided in Subsection 2.4.6(E)(3), Certificate of appropriateness (minor review), of this section, after preparation of a staff report, public notification, and the scheduling of a public hearing, the PZB shall conduct a public hearing on the application in accordance with Section 2.3.2, Standard public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, and the testimony given at the public hearing. After the close of the public hearing, the PZB shall approve, approve with conditions, or deny the application based on the standards in Subsection 2.4.6(F) of this section, Certificate of appropriateness standards.

(3) *Certificate of appropriateness (minor review).* The LDR Administrator is authorized to review and approve, approve with conditions, or deny an application for a certificate of appropriateness for projects which propose the type(s) of activity set forth in Subsections 2.4.6(E)(3)(a) and (b). The LDR Administrator shall review and take action on the application in accordance with the procedures and requirements of Section 2.2.13, Review by LDR Administrator. The LDR Administrator, in his or her sole discretion, may refer any application for a certificate of appropriateness to the PZB when the LDR Administrator finds that the application does not comply with the certificate of appropriateness standards as set forth in Subsection 2.4.6(F), Certificate of appropriateness standards. The City Commission may adopt by ordinance a Certificate of Appropriateness Approval Matrix establishing specific types of activity that may be administratively approved:

(a) *Residential repairs and maintenance with changes.* Activity that is considered to be ordinary repair and maintenance of a residential building or structure involving a change in design, material, color, or outer appearance of the building or structure (including but not limited to: changes in roofing materials and/or changes in roofing material colors; window types; shutter types; doors; decks and porches; or other similar appurtenances); and,

(b)

Residential additions, alterations, or demolitions visible from street. The demolition, removal, new construction, addition, or alteration of exterior features on existing residential buildings or residential structures, or any buildings or structures which are accessory to a residential use, when the building or structure is visible from a street and when the building or structure is used exclusively for residential purposes. Buildings or structures listed on the National Register of Historic Places shall require PZB action.

- (F) *Certificate of appropriateness standards.* The following standards shall be applied in determining whether to approve, approve with conditions, or deny a certificate of appropriateness:
- (1) *Affect exterior appearance.* Whether the proposed action will affect the exterior appearance of a building or structure and if such action will be visible from a street, or if such action will affect the appearance of any interior portion of a building or structure listed on the National Register of Historic Places or a building or structure listed as a contributing building to the City of Alachua Downtown Historic District.
 - (2) *Affect consistent with historical, architectural or other relevant qualities.* Whether any such affect is consistent with the historical, architectural, or other qualities which the Historic Overlay District seeks to protect and preserve.
 - (3) *Negative or positive impact on neighboring properties of historical significance.* Whether the proposed action will have a negative or positive impact on neighboring properties that have historic significance.
 - (4) *Effect of denial.* Whether the denial of a certificate of appropriateness would deprive the owner of reasonable beneficial use of their property.
 - (5) *Demolition.* In cases where a certificate of appropriateness is proposed for demolition of all or a portion of a historic property, the applicant shall demonstrate:
 - (a) That no other feasible alternative can be found;
 - (b) The extent to which the property may not be beneficially used without approval of the demolition;
 - (c) The ability to obtain a reasonable return from the existing structures; and
 - (d) Whether or not the building, structure, or property contributes to a Historic Overlay District, or no longer has historical significance.
- (G) *Conditions of approval.* In approving a certificate of appropriateness, the PZB or LDR Administrator (as applicable based upon the type of review) may impose conditions on the permit approval in accordance with Section 2.2.14, Conditions of approval.
- (H) *Amendments.* A certificate of appropriateness may be amended only in accordance with the procedures and standards established for its original approval, provided however, that the LDR Administrator may approve minor modifications to a certificate of appropriateness previously approved by the PZB or by the LDR Administrator where it is found that the modifications would not result in a substantial change to the activity approved by the certificate of appropriateness.
- (I) *Appeal of decision on certificate of appropriateness.* Any person aggrieved or affected by a decision of the Planning and Zoning Board may appeal such decision to the City Commission in accordance with Subsection 2.4.21 of this section, Appeal of decisions of the Planning and Zoning Board. Any person aggrieved or affected by a decision of the LDR Administrator may appeal such decision to the Board of Adjustment in accordance with Subsection 2.4.20 of this section,

Appeal of interpretation or decision by LDR Administrator.

2.4.7 *Variance permits.*

- (A) *Overview.* These LDRs include three types of variance permits: zoning variance permits (Subsection 2.4.7(C) of this section); subdivision variance permits (Subsection 2.4.7(D) of this section); and floodplain development variances (Section 2.4.7(E) of these LDRs).
- (B) *Purpose.* The purpose of a variance is to allow certain deviations from the standards of these LDRs, including variance from the dimensional zoning standards (such as height (except as provided for in Section 2.4.4 for the CI and CP zoning districts), parking, landscaping, lot dimensions, and signage standards), and subdivision standards (such as deviations from subdivision layout or public improvement standards) when the applicant demonstrates that, owing to special circumstances or conditions beyond the applicant's control (such as exceptional topographical conditions, narrowness, shallowness, or the shape of a specific parcel of land), the literal application of the standards in these LDRs would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.
- (C) *Zoning variance permits.*
- (1) *Authority.* The BOA is authorized to review and decide zoning variance permits in accordance with this section.
 - (2) *Applicability.* The following standards may be varied through the zoning variance permit procedure:
 - (a) The maximum height standards (except as provided for in Section 2.4.4 for the CI and CP zoning districts), maximum lot coverage standards, minimum yards and setbacks standards, minimum lot area standards, and minimum lot width standards in Section 5.1, Dimensional standards tables;
 - (b) The allowable yard encroachments in Section 5.2.2(C), Allowable yard encroachments;

- (c) The standards in:
 - (i) Section 6.1, Off-street parking and loading standards;
 - (ii) Section 6.2.2, Landscaping standards;
 - (iii) Section 6.2.3, Screening standards;
 - (iv) Section 6.3, Fencing standards;
 - (v) Section 6.4, Exterior lighting standards;
 - (vi) Section 6.5., Signage;
 - (vii) Section 6.6, Infill standards; and

(viii) Section 6.8, Large retail design standards.

(3) *Procedures.*

- (a) *Application submission, review, notification, and scheduling hearing.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
 - (b) *Review and action by BOA.* After preparation of a staff report, public notification, and the scheduling of a public hearing, the BOA shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the BOA shall consider the application, the relevant support materials, the staff report, and the testimony and evidence given at the public hearing. After the close of the public hearing, the BOA shall approve, approve with conditions, or deny the application based on the standards in Subsection 2.4.7(C)(4) of this section, Zoning variance permit standards.
- (4) *Zoning variance permit standards.* A zoning variance permit shall be approved only upon a finding that the applicant demonstrates all of the following standards are met:
- (a) *Extraordinary and exceptional conditions.* There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of a parcel of land) pertaining to the particular piece of land for which the variance is sought that do not generally apply to other land or structures in the vicinity.
 - (b) *Not result of action by applicant.* The special circumstances are not the result of the actions of the applicant.
 - (c) *No special privilege.* The granting of the variance will not confer any special privilege on the applicant that is denied to other lands or structures in the same zone district.
 - (d) *Strict application deprives use.* Because of the conditions in Subsection 2.4.7(C)(4)(a) of this section, the application of these LDRs to the land would effectively prohibit or unreasonably restrict the utilization of the land and result in unnecessary and undue hardship.
 - (e) *Minimum variance.* The granting of the variance is the minimum action that will make possible the reasonable use of the land or structure which is not contrary to the public interest, and which would carry out the spirit of these LDRs.
 - (f) *Not detrimental.* The authorization of the variance will not result in substantial detriment to adjacent land, and the character of the zone district in which the land subject to the application is located.
 - (g) *Consistency with these LDRs.* The granting of the variance will be generally consistent with the purposes and intent of these LDRs and the public interest.

(D) *Subdivision variance permits.*

- (1) *Authority.* The City Commission is authorized to review and decide subdivision variance permits in accordance with this section.
- (2) *Applicability.* The following standards may be varied through the subdivision variance permit procedure:
 - (a) The standards in Section 7.2, Subdivision layout and design generally.

(b) The standards in Section 7.3, Required improvements.

(3) *Procedures.*

- (a) *Application submission, review, notification, and scheduling hearing.* Requests for approval of a subdivision variance permit shall be submitted and approved prior to review of a preliminary plat (Subsection 2.4.10(G) of this section). The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
- (b) *Review and recommendation by PZB.* After preparation of a staff report, public notification, and the scheduling of the public hearing, the application shall be referred to the PZB by the LDR Administrator. The PZB shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, the testimony and evidence given at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to approve, approve with conditions, or deny the application based on the standards in Subsection 2.4.7(D)(4) of this section, Subdivision variance permit standards.

- (c) *Review and action by the City Commission.* After receipt of the PZB report, public notification, and the scheduling of a public hearing, the City Commission shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the City Commission shall consider the application, the relevant support materials, the staff report, the recommendation of the PZB, and the testimony and evidence given at the public hearing. After the close of the public hearing, the City Commission shall approve, approve with conditions, or deny the application based on the standards in Subsection 2.4.7(D)(4) of this section, Subdivision variance permit standards.
- (4) *Subdivision variance permit standards.* A subdivision variance permit shall be approved only upon a finding that the applicant demonstrates all of the standards in Subsection 2.4.7(C)(4) of this section, Zoning variance permit standards.
- (5)

Conditions of approval. In approving a subdivision variance permit, the LDR Administrator or decision-making body (as appropriate) may impose appropriate conditions on the permit approval in accordance with Section 2.2.14, Conditions of approval.

- (6) *Recordation.* The LDR Administrator or decision-making body (as appropriate) may require the applicant to record the subdivision variance permit with the Alachua County Clerk of Court. The subdivision variance permit shall be binding upon the landowners, their successors, and assigns and shall be noted in the subdividers agreement.
 - (7) *Subsequent development.* Development authorized by the subdivision variance permit shall not be carried out until the applicant has secured all other permits required by these LDRs or any other applicable provisions of the City. A subdivision variance permit does not ensure that the development approved as a variance shall receive subsequent approval for other applications for development permit unless the relevant and applicable portions of these LDRs or any other applicable provisions are met.
 - (8) *Effect.* Issuance of a subdivision variance permit shall authorize only the particular variance that is approved in the permit. A subdivision variance permit, including any conditions, shall run with the land and not be affected by a change in ownership. Land subject to an approved subdivision variance permit shall not be exempted from other relevant standards in these LDRs which are unrelated to the standard being varied.
 - (9) *Expiration.*
 - (a) *Generally.* The LDR Administrator or decision-making body (as appropriate) may prescribe a time limit within which development shall begin or be completed on the subdivision variance permit, or both. Failure to begin and/or complete such development within the time limit specified shall void the subdivision variance permit. Unless specified otherwise by the LDR Administrator or decision-making body (as appropriate), a subdivision variance permit shall automatically expire:
 - (i) One year from the date of its issuance if the development authorized by the permit has not commenced, and no substantial construction, alteration, demolition, excavation, or other similar work is required by the permit; or
 - (ii) If the development approved by the subdivision variance permit is discontinued and not resumed for a period of one year.
 - (b) *Extension.* Upon written application submitted at least 30 days prior to the expiration of the permit period by the applicant, and upon a showing of good cause, the LDR Administrator or decision-making body (whichever approved the permit) may grant one extension not to exceed six months. The approval shall be deemed extended until the LDR Administrator or decision-making body (whichever approved the permit) has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall result in the expiration of the subdivision variance permit.
 - (10) *Amendment.* A subdivision variance permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.
- (E) *Floodplain development variances.* The procedures and requirements for submission and review of an application for a floodplain development variance are established in Section 6.9.4(G), Floodplain development variances and appeals, of these LDRs.

2.4.8 *Administrative adjustment.*

- (A) *Generally.* This section sets out the procedures and standards for administrative adjustments, which are modifications of ten percent or less of any numeric dimensional standard in Table 5.1-1, Dimensional Standards in the Conservation and Agricultural Districts, Table 5.1-2, Dimensional Standards in the Residential Districts, and Table 5.1-3, Dimensional Standards in the Business Districts, except those related to maximum gross density.
- (B) *Authority.* The LDR Administrator is authorized to review and approve, approve with conditions, or deny an application for an administrative adjustment in accordance with this section.

(C) *Procedure.*

(1) *Initial submission of application and staff review.* The procedures and requirements for submission and review of an application are established in [Section 2.2](#), Common development review procedures.

(2) *Review and action by LDR Administrator.* The LDR Administrator shall review and take action on the application in accordance with the procedures and requirements of Section 2.2.13, Review by LDR Administrator.

(D) *Administrative adjustment standards.* Administrative adjustments shall be approved upon a finding the applicant demonstrates all of the following standards are met:

(1) *Generally.* The requested administrative adjustment is not inconsistent with the character of development in the surrounding area, and will not result in incompatible uses.

- (2) *Mitigates adverse impacts.* Any adverse impacts resulting from the administrative adjustment will be mitigated to the maximum extent practicable.
- (3) *Technical nature.* The administrative adjustment is of a technical nature (i.e., relief from a dimensional or design standard), and is either:
- (a) Required to compensate for some unusual aspect of the site or the proposed development that is not shared by landowners in general;
 - (b) Supporting an objective or goal from the purpose and intent statements of the zone district where located; or
 - (c) Proposed to save healthy existing trees.
- (4) *Not substantially interfere with convenient and enjoyable use of adjacent land.* The administrative adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands, and will not pose a danger to the public health or safety.
- (E) *Conditions of approval.* In approving an administrative adjustment, the LDR Administrator may grant a lesser modification than the maximum allowed by this section or requested by an applicant, and may impose appropriate conditions on the permit approval in accordance with Section 2.2.14, Conditions of approval.
- (F) *Recordation.* The LDR Administrator may require the applicant to record the administrative adjustment with the Alachua County Clerk of Court. The administrative adjustment shall be binding upon the landowners, their successors, and assigns.
- (G) *Subsequent development.* Development authorized by the administrative adjustment shall not be carried out until the applicant has secured all other permits required by these LDRs or any other applicable provisions of the City. An administrative adjustment shall not ensure that the development approved as an administrative adjustment receives subsequent approval for other applications for development unless the relevant and applicable portions of these LDRs or any other applicable provisions are met.
- (H) *Effect.* Issuance of an administrative adjustment shall authorize only the particular administrative adjustment that is approved in the permit. An administrative adjustment, including any conditions, shall run with the land and not be affected by a change in ownership.
- (I) *Expiration.*
- (1) *Generally.* The LDR Administrator may prescribe a time limit within which development shall begin or be completed on the administrative adjustment, or both. Failure to begin and/or complete such development within the time limit specified shall void the administrative adjustment. Unless specified otherwise by the LDR Administrator, a building permit shall be obtained for the development approved by the permit within 12 months from the date of approval of the administrative adjustment, and development shall be completed on the building permit within the time allowed under the City's building regulations, or the administrative adjustment shall expire and be void. In cases where a building permit is not required to establish the use, a certificate of LDR compliance (Subsection 2.4.15 of this section) shall be obtained within 12 months from the date of approval, or the administrative adjustment shall expire and be void.
 - (2) *Extension.* Upon written application submitted at least 30 days prior to the expiration of the permit period by the applicant and upon a showing of good cause, the LDR Administrator may grant one extension not to exceed six months. The approval shall be deemed extended until the LDR Administrator has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall result in the expiration of the administrative adjustment.
- (J)

Amendment. An administrative adjustment may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(K) *Appeal of decision of LDR Administrator.* Any person aggrieved or affected by a decision of the LDR Administrator may appeal such decision to the BOA in accordance with Subsection 2.4.20 of this section, Appeal of interpretation or decision by LDR Administrator.

2.4.9 *Minor site plans, site plans, and infrastructure plans.*

- (A) *Purpose.* Minor site plan, site plan, or infrastructure plan review is required to ensure that the layout and general design of proposed development is compatible and harmonious with surrounding uses and complies with the applicable standards of Article 6, Development Standards, Article 7, Subdivision Standards, and all other applicable provisions of these LDRs.
- (B) *Applicability.* All development, unless exempted in accordance with Section 2.4.9(C), Exemptions, or subject to review in accordance with Section 2.4.10, Subdivision, shall be required to have a minor site plan, site plan, or infrastructure plan approved in accordance with this section prior to issuance of a building permit or prior to the commencement of construction of any infrastructure approved in accordance with this section.
- (1) *Minor site plans.* The following development and activities shall be reviewed in accordance with Section 2.4.9(D)(2)(a), Review and action by LDR Administrator, on application for minor site plan. One or more of the following actions may be proposed as a part of an application for a minor site plan:
- (a) The addition of 1,000 square feet or less of total gross floor area to existing nonresidential buildings or mixed-use development.
 - (b) The addition of 2,500 square feet or less of unenclosed building area.
 - (c) The addition of impervious area to an existing nonresidential or mixed-use development which consists of ten percent or less of existing impervious area and does not exceed 5,000 square feet of new impervious area.
 - (d) The reconfiguration of existing parking and loading areas, such as re-striping an existing parking lot area to reconfigure the on-site vehicular circulation pattern or designated parking and loading areas, which does not propose any new impervious surface area.
 - (e) Change-outs of exterior light fixtures.
 - (f) The addition of an accessory use or structure which affects the layout and configuration of a site.
- (2) *Site plan consisting of building less than 80,000 square feet in area.* Applications for a site plan consisting of a building less than 80,000 square feet in area shall be reviewed in accordance with the Section 2.4.9(D)(2)(b), Review and action by PZB on application for site plan consisting of building less than 80,000 square feet in area.
- (3) *Site plan consisting of building greater than or equal to 80,000 square feet in area.* Applications for a site plan consisting of a building greater than or equal to 80,000 square feet in area shall be reviewed in accordance with the Section 2.4.9(D)(2)(c), Review and recommendation by PZB and review and action by City Commission on application for site plan consisting of building greater than or equal to 80,000 square feet in area.
- (4) *Infrastructure plan.* Development which is comprised of public or private infrastructure, including but not limited to streets, sidewalks, multiuse paths or trails, and other transportation infrastructure, potable and reclaimed water systems, sanitary sewer systems, electric systems, natural gas lines, and stormwater systems, shall be reviewed in accordance with Section 2.4.9(D)(2)(d), Review and action by City Commission on application for infrastructure plan.
- (C) *Exemptions.* The following development shall be exempted from the requirements of this section (but is not exempted from Section 2.4.15, Certificate of LDR compliance, or the need to obtain a building permit):
- (1) *Single-family development.* Single-family development on a single lot.

- (2) *Two-family to four-family development.* Two-family to four-family dwelling development on a single lot.
- (3) *Residential subdivisions.* Minor and major subdivision (Section 2.4.10) for single-family residential subdivisions and two-family to four-family dwelling subdivisions.
- (4) *Wireless antennas.* Collocation of wireless antennas on an existing tower per F.S. § 365.172(12)(a)(1) and as further set forth in Section 4.3.2(l)(1)(f).
- (5) *Minor utilities.* Minor utilities as described in Section 10.2 of these LDRs.
- (6) *Accessory uses added to existing development.* Accessory uses as permitted in Section 4.4 which do not affect the layout or configuration of the site shall be subject to this exemption and shall be reviewed and approved in accordance with Section 2.4.15, Certificate of LDR Compliance. The application for a Certificate of LDR Compliance shall include a sketch plan as a supplement and must provide sufficient information to demonstrate that the accessory use complies with the provisions of Section 4.4, Accessory uses and structures, and any other applicable provisions of these LDRs.

(D) *Procedures.*

- (1) *Submission and review of application.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
- (2) *Review, recommendation, and action on application for minor site plan, site plan, or infrastructure plan.*
 - (a) *Action by LDR Administrator on application for minor site plan.* The LDR Administrator shall review the application in accordance with Section 2.2.13, Review by LDR Administrator.
 - (b) *Review and action by PZB on application for site plan consisting of building less than 80,000 square feet in area.* After preparation of a staff report, public notification, and the scheduling of a public hearing on an application for a site plan consisting of a building less than 80,000 square feet in area, the PZB shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, and the testimony and evidence given at the public hearing. After the close of the public hearing, the PZB shall approve, approve with conditions, or deny the application based on the standards in Section 2.4.9(E)(1), Minor site plan and site plan standards.
 - (c) *Review and recommendation by PZB and review and action by City Commission on application for site plan consisting of building greater than or equal to 80,000 square feet in area.*
 - (i) *Review and recommendation by PZB on application for site plan consisting of building greater than or equal to 80,000 square feet in area.* After preparation of a staff report, public notification, and the scheduling of a public hearing on an application for a site plan consisting of a building greater than or equal to 80,000 square feet in area, the PZB shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, and the

testimony and evidence given at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to approve, approve with conditions, or deny the application based on the standards in Section 2.4.9(E)(1), Minor site plan and site plan standards. The PZB shall then forward the report to the City Commission.

(ii) *Review and action by City Commission on application for site plan consisting of building greater than or equal to 80,000 square feet in area.* After receipt of the report from the PZB, public notification, and the scheduling of a public hearing on an application for a site plan consisting of a building greater than or equal to 80,000 square feet in area, the City Commission shall consider the application during a public hearing in accordance with Section 2.4.1, Quasi-judicial public hearings. At the public hearing, the City Commission shall review the application, the relevant support materials, the staff report, the report of the PZB, and the testimony given at the hearing. After the close of the hearing, the City Commission shall either approve, approve with conditions, or deny the application based on the standards in Section 2.4.9(E)(1), Minor site plan and site plan standards.

(d) *Review and action by City Commission on application for infrastructure plan.* After preparation of a staff report, public notification, and the scheduling of a public hearing on an application for an infrastructure plan, the City Commission shall consider the application during a public hearing in accordance with Section 2.4.1 of this section, Quasi-judicial public hearings. At the public hearing, the City Commission shall consider the application, the relevant support materials, the staff report, and the testimony and evidence given at the public hearing. After the close of the public hearing, the City Commission shall either approve, approve with conditions, or deny the application based on the standards in Section 2.4.9(E)(2)(a)—(e), Infrastructure plan standards.

(E) *Minor site plan, site plan, and infrastructure plan standards.* Minor site plans, site plans, and infrastructure plans shall comply with the standards below.

(1) *Minor site plan and site plan standards.* A minor site plan or site plan shall be approved only upon a finding the applicant demonstrates all of the following standards are met:

(a) *Consistency with Comprehensive Plan.* The development and uses proposed by the minor site plan or site plan comply with the goals, objectives and policies of the Comprehensive Plan.

(b) *Use allowed in zone district.* The use is allowed in the zone district in accordance with Article 4, Use Regulations.

(c) *Zone district use specific standards.* The development and uses proposed by the minor site plan or site plan comply with Section 4.3, Use specific standards.

(d) *Development and design standards.* The development proposed by the minor site plan or site plan and its general layout and design comply with all applicable standards in Article 6, Development Standards.

(e) *Subdivision standards.* In cases where a subdivision has been approved or is pending, the development proposed by the minor site plan or site plan and its general layout and design comply with all applicable standards in Article 7, Subdivision Standards.

(f)

Complies with all other relevant City laws, ordinances, regulations, requirements, and State and Federal laws and regulations. The proposed development and use complies with all other relevant City laws, ordinances, regulations, requirements, and with all State and Federal laws and regulations.

- (2) *Infrastructure plan standards.* An infrastructure plan shall be approved only upon a finding the applicant demonstrates the standards set forth in Sections 2.4.9(E)(2)(a)—(e) are met:
- (a) *Consistency with Comprehensive Plan.* The infrastructure plan complies with all applicable goals, objectives and policies of the Comprehensive Plan.
 - (b) *Development and design standards.* The infrastructure plan and its general layout and design comply with all applicable standards in Article 6, Development Standards.
 - (c) *Subdivision standards.* The infrastructure plan complies with all applicable layout and design and standards in Article 7, Subdivision Standards, including but not limited to block layout, street arrangement and design, and utility improvements.
 - (d) *Complies with all other relevant laws, ordinances, regulations and local requirements.* The proposed infrastructure plan complies with all other relevant City laws, ordinances, regulations, and requirements, and with all State and Federal laws and regulations.
 - (e) *Improvement guarantee.* Prior to the review and action by the City Commission on an application for an infrastructure plan, the developer shall post a surety instrument in a form as set forth in Section 6.10, Improvement guarantees for private improvements, and Section 7.4, Improvement guarantees for public improvements to cover the estimated cost of all public and private infrastructure improvements, including but not limited to streets, sidewalks, multiuse paths or trails, and other transportation infrastructure, potable and reclaimed water systems, sanitary sewer systems, electric systems, natural gas lines, and stormwater systems. The estimated cost for the installation of all public and private infrastructure improvements shall be provided by a professional engineer licensed to practice in the State of Florida, and shall include all costs associated with the required materials and installation.
 - (f) *Dedication of public right-of-way.* Public right-of-way shall be conveyed to the City by deed. The conveyance of public right-of-way shall be approved by the City Commission upon a finding that:
 - (i) All public and private infrastructure improvements have been completed in accordance with the approved infrastructure plan, all City laws, ordinances, and design standards, and are functional; and
 - (ii) A surety instrument for the warranty period has been provided to the City as set forth in Section 2.4.9(D)(2)(g), Warranty period following completion of infrastructure. The surety instrument shall be in a form as set forth in Section 6.10.2, Form of performance guarantees.
 - (g) *Warranty period following completion of infrastructure.* Following completion of all required improvements and concurrently with the approval by the City Commission of the conveyance of public right-of-way as set forth in Section 2.4.9(D)(2)(f), Dedication of public right-of-way, a one-year warranty period shall commence. During the warranty period, the developer shall be responsible for all improvements for a period of one year from the approval of the infrastructure plan, other than routine maintenance. Following the warranty period, the developer shall request a final inspection of the improvements by the Public Services Director, who shall have 60 days to complete the final inspection. Upon completion of the final inspection, the

Public Services Director shall provide the developer with a final inspection report which identifies any needed repairs. The warranty period shall be extended until the Public Services Director has determined that no further repairs are needed. Upon completion of all needed repairs and the correction of any deficiencies, the developer shall request an inspection of the repairs by the Public Services Director, who shall have 30 days to complete the inspection of the repairs. Upon the determination of the Public Services Director that the improvements have been constructed in accordance with the infrastructure plan and no further repairs are needed to the improvements, as-built drawings of all infrastructure shall be submitted prior to acceptance of full maintenance responsibility.

(h) *Acceptance of public infrastructure improvements.* Within 60 days of the Public Services Director's determination that the improvements have been constructed in accordance with the infrastructure plan and no repairs are needed to the improvements, the City Commission shall formally accept the public improvements. Following the acceptance of public infrastructure, the City shall return to the developer the balance of the surety instrument provided for the warranty period. Nothing in these LDRs shall be construed as meaning that the City Commission shall take over for maintenance any road, street, utility, public parking or other public area, or stormwater management facilities related thereto, except those designed and built in accordance with the requirements of this section, other City laws, ordinances, and design standards, that are expressly accepted for maintenance by specific action of the City Commission.

(F) *Conditions of approval.* In approving a minor site plan, site plan, or infrastructure plan, the LDR Administrator, PZB, and City Commission, as applicable, may impose appropriate conditions on the permit approval in accordance with Section 2.2.14, Conditions of approval.

(G) *Expiration.*

(1) *Generally.* The LDR Administrator, PZB, and City Commission, as applicable, may prescribe a time limit within which development shall begin or be completed, or both. Failure to begin and/or complete such development within the time specified shall void the minor site plan, site plan, or infrastructure plan. A change in ownership of the land does not affect the timeframes related to minor site plan, site plan, or infrastructure plan expiration. Unless specified by the LDR Administrator, PZB, or City Commission, as applicable, a minor site plan, site plan, or infrastructure plan approval shall automatically expire:

- (a) At the end of 12 months after the date of its approval if a building permit for at least one building in the development proposed in the minor site plan or site plan is not approved; or
- (b) If a building permit for any other building associated with the minor site plan or site plan is not obtained within three years after the date of its approval; or
- (c) At the end of 12 months after the date of infrastructure plan approval if the construction of infrastructure associated with the infrastructure plan has not commenced.

(2) *Extension.* Upon written application submitted by the applicant at least 30 days prior to the expiration of the minor site plan, site plan, or infrastructure plan and upon a showing of good cause, the LDR Administrator, PZB, or City Commission, as applicable, may grant one extension not to exceed 12 months. The approval shall be deemed extended until the LDR Administrator, PZB, or City Commission has acted upon the request for extension. Failure to submit an

application for an extension within the time limits established by this section shall render the minor site plan, site plan, or infrastructure plan void.

(H) *Amendments.* A minor site plan, site plan, or infrastructure plan may be amended or extended only in accordance with the procedures and standards established for its original approval. Minor structural, material, or dimensional modifications, including but not limited to the relocation or substitution of landscaping materials, limited architectural modifications, minor deviations in the size of a structure, or minor deviations of the dimensions of improvements (i.e., parking, drive aisle width, etc.) may be administratively granted by the LDR Administrator or designee. Such modifications shall meet the requirements of these LDRs, in the sole discretion of the LDR Administrator or designee, and shall not affect any condition of the minor site plan, site plan, or infrastructure plan approval. Any proposed modifications to a minor site plan, site plan, or infrastructure plan deemed by the LDR Administrator, in his or her sole discretion, to be inconsistent with the procedures for administrative modification shall be amended in accordance with the procedures and standards established for its original approval.

(I) *Appeal of decision on application for minor site plan or for site plan consisting of building less than 80,000 square feet in area.*

(1) *Appeal of LDR Administrator decision on application for minor site plan.* Any person aggrieved or affected by a decision of the LDR Administrator regarding an application for a minor site plan may appeal such decision to the Board of Adjustment in accordance with Section 2.4.20, Appeal of interpretations or decisions by LDR Administrator.

(2) *Appeal of PZB decision on application for site plan consisting of building less than 80,000 square feet in area.* Any person aggrieved or affected by a decision of the PZB regarding an application for a site plan consisting of a building less than 80,000 square feet in area may appeal such decision to the City Commission in accordance with Section 2.4.21, Appeal of decisions of the Planning and Zoning Board.

(J) *Limitation on frequency of minor site plan approval.* Following the approval of a minor site plan, no additional minor site plans shall be approved for any other development on the subject property for a period of 12 months from the date of the approval of the minor site plan.

2.4.10 Subdivision.

(A) *Purpose.* The purpose of this section and Article 7, Subdivision Standards, are to promote the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of the City by:

(1) *Orderly growth and development.* Providing for the orderly growth and development of the City, and discourage haphazard, premature, or scattered development.

(2) *Coordinating streets and roads with City's planned street system and other public facilities.* Coordinating streets and roads within proposed subdivisions with the City's planned street system, and with other public facilities.

(3) *Right-of-way for streets and utilities.* Providing adequate right-of-way easements for streets and utilities.

(4) *Safe and convenient transportation.* Encouraging the proper arrangement of streets in relation to existing or planned streets to provide safe and convenient movement for all modes of transportation.

(5) *Open space and recreation facilities.* Ensuring there is adequate open space and recreation facilities to serve development.

- (6) *Proper land records.* Ensuring there is proper recordation of landownership records.
- (7) *Prevent flooding.* Preventing periodic and seasonal flooding by providing adequate flood control and drainage facilities while minimizing development in floodprone areas.
- (8) *Protect health, safety, and welfare.* Ensuring the provision of such other matters as the City Commission may deem necessary in order to protect the general health, safety and welfare of the City.

(B) *Applicability.*

- (1) *Generally.* The following development, unless exempted in accordance with Section 2.4.10(B)(3), Exemptions, is required to have land subdivided in accordance with the procedures and standards of this section prior to the transfer of title or sale of any lots, or the issuance of a building permit for development.
 - (a) The division of land into three or more lots, building sites, or other divisions for the purpose of immediate or future sale, lease, or building development;
 - (b) All divisions of land involving a new street or change in existing streets;
 - (c) Resubdivision involving the further division or relocation of lot lines of any lot or lots within an already approved subdivision; and
 - (d) The combination or consolidation of lots of record.

(2) *Overview of development permits required.*

- (a) Every subdivision of land is classified as either:
 - (1) A minor subdivision; or
 - (2) A major subdivision.

A final plat shall be approved by the City Commission and recorded in the Official Records of Alachua County for a subdivision prior to the transfer of title or sale of any lots for the land subject to subdivision.

- (b) For nonresidential subdivisions, an application for a site plan (Section 2.4.9 of this section) approval may run concurrently with an application for construction plans or an application for a final plat. A nonresidential subdivision is not required to show the division of any land into lots or parcels, but shall show all streets and other required public and private infrastructure improvements.

(3) *Exemptions.* The following development shall be exempt from the requirements of this section:

- (a) *Lot split.* A lot split, consisting of a division of a lot of record into no more than two lots, as long as the lot area complies with the dimensional standards of these LDRs. This exemption does not apply to lots within an existing platted subdivision.
- (b) Land for widening or opening streets. The public acquisition by purchase of strips of land for the widening or opening of new streets.
- (c) *Partition of land by court.* The partition of land by court decree.

- (d) *Transfer by sale or gift.* The transfer of property without subdivision by sale, gift, succession, or for the purposes of dissolving tenancy in common among tenants.
- (e) *Nonresidential and/or multifamily development.* A development consisting of multifamily uses, nonresidential uses, or mixed-use which requires site plan review pursuant to Section 2.4.9 of these LDRs. Such development shall not conflict with the requirements of Chapter 177, Part I, Florida Statutes, and shall not constitute a division, resubdivision, or combination/consolidation as defined in Section 2.4.10(B)(1)(a)—(d). Site plans for such development shall indicate the location and specifications of all utility infrastructure, including but not limited to water, wastewater, and electrical facilities, serving the development. This exemption shall not preclude a developer from subdividing a nonresidential, mixed-use, or multifamily development pursuant to this Section 2.4.10.
- (f) *Development of public or private infrastructure only.* Development which is comprised of public or private infrastructure, including but not limited to streets, sidewalks, multiuse trails or paths, and other transportation infrastructure, potable and reclaimed water systems, sanitary sewer systems, electric systems, natural gas lines, and stormwater systems, as set forth in Section 2.4.9(B)(4). Such development shall not propose the creation of any lots, shall not conflict with the requirements of Chapter 177, Part 1, Florida Statutes, and shall not constitute a division, resubdivision, or combination/consolidation as defined in Section 2.4.10(B)(1)(a)—(d).
- (g) *Existing nonresidential and/or multifamily development.* Existing nonresidential, mixed-use, or multifamily development when the development:
 - (1) Has received approval of a site plan or infrastructure plan pursuant to Section 2.4.9 of these LDRs;
 - (2) All public and private utility infrastructure approved by the site plan or infrastructure plan has been constructed; and
 - (3) All public utility infrastructure has been approved and accepted by the applicable entity.
- (h) *Roadway improvement projects identified in long range transportation plan.* Roadway improvement projects involving the creation, relocation, or extension of a street or modifications to streets that are identified in the adopted City of Alachua Long Range Transportation Plan, provided however that when the roadway improvement will be performed by an entity other than the City of Alachua, Alachua County, or State of Florida, a surety device in accordance with Section 7.4, Improvement guarantees for public improvements, or Section 6.10, Improvement guarantees for private improvements, as applicable, shall be posted with the City.
- (i) *Residential development in the CP zoning district.* Residential development in the Corporate Park (CP) zoning district which shall remain in common ownership shall be reviewed pursuant to Section 2.4.9, Minor site plans, site plans, and infrastructure plans, of these LDRs. Such development shall not conflict with the requirements of Chapter 177, Part I, Florida Statutes, and shall not constitute a division, resubdivision, or combination/consolidation as defined in Section 2.4.10(B)(1)(a)—(d). Site plans for such development shall indicate the location and specifications of all utility infrastructure, including but not limited to water, wastewater, and electrical facilities, serving the development.

(C)

Subdivision name. Every subdivision shall be given a name by which it shall be legally known. Such name shall not be the same or similar to a subdivision name appearing on another recorded plat within the County so as to confuse the records or to mislead the public as to the identity of the subdivision, except when the subdivision is subdivided as an additional unit or section by the same subdivider or the subdivider's successors in title. The name of the subdivision shall be shown in the dedication and shall coincide exactly with the subdivision name. The City Commission shall have final authority to approve the names of subdivisions.

(D) *Vacation or annulment.*

- (1) *Generally.* The vacation and annulment of plats shall be in accordance with the requirements of Chapter 177, Part 1, Florida Statues. If a replat has been filed, a plat vacation under this section is not required.

(2) *Required findings.* Vacation of a subdivision shall be based on a finding by the City Commission that the proposed vacation and reversion to acreage of subdivided land is consistent with the Comprehensive Plan and furthers the interest of the public.

(3) *Retention of access.* No owner of land in a subdivision shall be deprived by the vacation of reasonable access to existing development in the subdivision. Plat vacation shall not result in the landlocking of any developed properties.

(E)

Preparation of plats. All final plats shall be prepared by a surveyor registered in the State of Florida and preliminary plats and construction plans and specifications for required improvements shall be prepared by an engineer registered in the State of Florida. The subdivider shall present documentation to the LDR Administrator certifying that the subdivider has employed a registered surveyor and a registered engineer in the preparation of these documents.

(F) *Minor subdivision.*

- (1) *Generally.* Excluding subdivisions exempted by Subsection 2.4.10(B)(3) of this section, Exemptions, minor subdivisions constitute:
- (a) The subdivision of land into six or fewer lots, provided that:
 - (i) No new streets, alleys, or other public ways are created;
 - (ii) No changes are made to the existing rights-of-way of any streets, alleys or other public ways;
 - (iii) No new utilities are required to serve the subdivided land;
 - (iv) The division of land complies with the standards of Article 7, Subdivision Standards;
 - (v) No flag lot is created; and
 - (vi) The lots have direct access onto an improved street that has been accepted for maintenance by the appropriate jurisdiction or is maintained by a Property Owners Association.
 - (b) Revisions of single lots within an existing platted subdivision.
 - (c) The subdivision of land into 50 or fewer single-family detached or attached lots where a minimum of 25 percent of the lots are restricted for affordable housing for low-income residents.
- (2) *Procedure.* Minor subdivisions shall be exempted from the requirements for a preliminary plat (Section 2.4.10(G)(3)), and construction plans (Section 2.4.10(G)(4)) but shall be required to obtain final plat approval in accordance with the procedure below:
- (a) *Preapplication conference, application submission, review, public notification, and scheduling hearing.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
 - (b) *Review and recommendation by PZB.* After preparation of a staff report, public notification, and the scheduling of the public hearing, the application shall be referred to the PZB by the LDR Administrator. The PZB shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, the testimony given at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to approve, approve with conditions, or deny the application based on the standards in Section 2.4.10(F)(3), Minor subdivision standards. The PZB shall then forward the report to the City Commission.
 - (c)

Review and action by City Commission. After receipt of the report from the PZB, public notification, and the scheduling of the public hearing, the City Commission shall consider the application during a public hearing conducted in accordance with Section 2.3.1, Quasi-judicial public hearings. At the hearing, the City Commission shall review the application, the relevant support materials, the staff report, the report of the PZB, and the testimony given at the hearing. After the close of the hearing, the City Commission shall either approve the application for a minor subdivision, modify or approve the application with conditions, or deny the application, based on the standards of Section 2.4.10(F)(3), Minor subdivision standards.

(3) *Minor subdivision standards.* A minor subdivision shall be approved on a finding that the application complies with the standards in Article 7, Subdivision Standards, all other relevant provisions of these LDRs, and all other relevant City ordinances and regulations.

(4) *Recordation.*

- (a) The subdivider shall file an approved minor subdivision with the Alachua County Clerk of Court for recording within 45 days after the date of approval and prior to the recording of any individual deeds for the subdivided lots, or the minor subdivision approval shall be null and void.
- (b) If the subdivider places restrictions on land in the subdivision greater than those required by these LDRs, such restriction shall be indicated in the documents recorded with the minor subdivision recorded with the Alachua County Clerk of Court.

(5) *Amendments.* A minor subdivision may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

(G) *Major subdivision.*

(1) *Applicability.* The standards and procedures of this subsection shall apply to all subdivision of land not exempted in accordance with Section 2.4.10(B)(3), Exemptions, or considered a minor subdivision in accordance with Section 2.4.10(F), Minor subdivision. It requires approval of a preliminary plat, construction plan and final plat.

(2) *Process.* A major subdivision shall be reviewed in three consecutive steps. The first step is review and approval of the preliminary plat (Section 2.4.10 (G)(2)). The second step is review and approval of the Construction Plans (Section 2.4.10(G)(4)). The third step is preparation of the subdivider's agreement and review and approval of the final plat (Sections 2.4.10(G)(4) and (5)). A final plat may be submitted and reviewed concurrently with the submittal and review of construction plans, but shall not be considered by the City Commission before the approval of construction plans.

(3) *Preliminary plat.*

(a) *Generally.* A preliminary plat establishes the general layout and design for the subdivision. Upon the approval of a preliminary plat, detailed plans for street construction, utility line installations, and similar approvals shall be prepared and approved for construction plans. Building permits may not be issued before approval of a final plat.

(b) *Preapplication conference, application submission, review, public notification, and scheduling hearing.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.

- (c) *Review and recommendation by PZB.* After preparation of a staff report, public notification, and the scheduling of the public hearing, the application shall be referred to the PZB by the LDR Administrator. The PZB shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, the testimony given

at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to approve, approve with conditions, or deny the application based on the standards in Section 2.4.10(G)(3)(e), Preliminary plat standards. The PZB shall then forward the report to City Commission.

- (d) *Review and action by City Commission.* After receipt of the report from the PZB, public notification, and the scheduling of the public hearing, the City Commission shall consider the application during a public hearing conducted in accordance with Section 2.3.1, Quasi-judicial public hearings. At the hearing, the City Commission shall review the application, the relevant support materials, the staff report, the report of the PZB, and the testimony given at the hearing. After the close of the hearing, the City Commission shall either approve the application for a preliminary plat, modify or approve the application with conditions, or deny the application, based on the standards of Section 2.4.10(G)(3)(e), Preliminary plat standards.
- (e) *Preliminary plat standards.* A preliminary plat shall be approved upon a finding the application complies with the standards in Article 7, Subdivision Standards, all other relevant provisions of these LDRs, and all other relevant City ordinances and regulations.
- (f) *Conditions.* In approving a preliminary plat, the City Commission may impose appropriate conditions on the permit approval in accordance with Section 2.2.14, Conditions of approval.
- (g) *Effect of approval.* Approval of a preliminary plat shall constitute approval of the development with the general lot shapes and alignments of streets identified on the preliminary plat. Approval of a preliminary plat allows the subdivider to submit construction plans for review (Section 2.4.10(G)(4)). Approval of a preliminary plat does not constitute approval of a final plat. The preliminary plat shall run with the land.
- (h) *Expiration.*
 - (i) The approval of a preliminary plat shall be valid until the latter of:
 - (a) Thirty-six months following approval of the preliminary plat by the City Commission;
 - (b) Six months following the approval of construction plans for all or a portion of the preliminary plat; or,
 - (c) Twelve months following approval of a final plat that includes at least 20 percent of the number of lots approved by the preliminary plat.
 - (ii) Notwithstanding the provisions of Section 2.4.10(G)(2)(i), a preliminary plat shall in no case be valid for a period of more than six years from the original date of approval by the City Commission.
- (i) *Extension.* Upon written application submitted at least 30 days prior to the expiration of the permit period by the applicant and upon a showing of good cause, the City Commission may grant one extension not to exceed 12 months. The approval shall be deemed extended until the City Commission has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall render the preliminary plat void.
- (j) *Amendment.* A preliminary plat may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval other than those minor amendments listed below, which may be approved by the Land Development Regulations Administrator. Such amendments must meet all other requirements of the City's Land Development Regulations and Comprehensive Plan. Minor amendments to the preliminary plat include:

- (i) Reduction of total number of lots by not more than three percent of original approved amount;
- (ii) Increase in total number of lots by not more than two percent of the original approved amount;
- (iii) Modification to lot dimensions and sizes for no more than ten percent of the total number of approved lots; and
- (iv) Shifts of right-of-way, streets, stormwater basins or other infrastructure not more than 25 feet from original approved locations.

(4) *Construction plans.*

- (a) *Generally.* Construction plans shall be submitted in accordance with this section. Construction plans are engineered drawings depicting the precise design, location, and profile of all public facilities proposed for development of the subdivision, including, but not limited to, streets, street markings, street signs, sidewalks, public pedestrian pathways or trails, potable water lines, sanitary sewer lines, public utility meter locations, storm drains, fire suppression systems, and locations of conduit crossings for private utilities. Construction plans shall be submitted 60 days prior to expiration of the preliminary plat.
- (b) *Initial submission of application and staff review.* The procedures and requirements for submission and review of an application for construction plans are established in Section 2.2, Common development review procedures.
- (c) *Review and action by LDR Administrator.* The LDR Administrator shall review and take action on the construction plans in accordance with Section 2.2.13, Review by LDR Administrator.
- (d) *Construction plan standards.* Construction plans shall be in substantial conformance with the approved valid preliminary plat (Section 2.4.10(G)(3)), the standards in Article 7, Subdivision Standards, and City construction standards.
- (e) *Effect of approval.* Approval of construction plans allows a subdivider to proceed with submittal of the final plat. If a final plat has been submitted and reviewed concurrently with the construction plans as provided for in Section 2.4.10(G)(2), Process, approval of the construction plans allows the final plat to proceed to consideration by the City Commission.
- (f) *Amendment.* Construction plans may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.
- (g) *Appeal to Board of Adjustment.* A decision on construction plans may be appealed to the Board of Adjustment in accordance with the procedures of Section 2.4.20, Appeal of interpretation or decision by LDR Administrator.

(5) *Subdivider's agreement.*

- (a) Concurrent with the approval of a final plat, the City shall enter into an agreement with the subdivider. This subdivider agreement shall include, but not be limited to, provisions for installing the required construction and public and private infrastructure improvements to completion; the developing of the subdivision in phases, if applicable; and proportionate share costs of potable water facilities, wastewater facilities, transportation facilities, and stormwater management facilities which may be required to be installed at a larger size or capacity to serve the subdivision as well as a larger geographic area or population.

- (b) The subdivider agreement shall include, but is not limited to, the following:
- (i) The public and private infrastructure improvements to be done and the time specified for the installation of public and private infrastructure improvements, by the subdivider.
 - (ii) The variances, if any, approved by the City Commission to the subdivision regulations contained in Article 7.
 - (iii) The participation in the installation of infrastructure beyond the capacities needed by the subdivision, if any, by the City Commission and the time for completion of such work.
 - (iv) The agreement of the subdivider to post a surety device in accordance with Section 7.4, Improvement guarantees for public improvements.
 - (v) The agreement of the subdivider to post a surety device in accordance with Section 6.10, Improvement guarantees for private improvements.
 - (vi) The agreement of the subdivider to maintain and repair all improvements which these LDRs require the subdivider to install in the subdivision for a period of one year after the completion of the same, in accordance with Section 6.10.4, Maintenance guarantees, and Section 7.8, Maintenance.
 - (vii) Anything else the City deems necessary to ensure compliance with the Comprehensive Plan, LDRs and other applicable rules and regulations.
- (6) *Final plat.*
- (a) *Generally.* Concurrent with the preparation of a subdivider agreement and the posting of a surety device for the private improvements in accordance with Section 6.10, Improvement guarantees for private improvements, and the posting of a surety device for the public improvements in accordance with Section 7.4, Improvement guarantees for public improvements, the subdivider shall submit a final plat for review in accordance with this section.

- (b) *Initial submission of application and staff review.* The procedures and requirements for submission and review of an application for final plat for subdivision are established in Sections 2.2, Common development review procedures.
- (c) *Action by City Commission.* After public notification and the scheduling of the public hearing, the City Commission shall consider the application and approve or disapprove the application based on the standards of Section 2.4.10(G)(6)(d), Final plat standards.
- (d) *Final plat standards.* The final plat for subdivision shall:
 - (i) Comply with the standards contained in Article 7, Subdivision Standards;
 - (ii) Be in substantial conformance with the valid preliminary plat, and the construction plans;
 - (iii) Be consistent with all other relevant provisions of these LDRs;
 - (iv) Be consistent with all other relevant City ordinances, regulations, and requirements;
 - (v) Address the provision of required public and private improvements in the following ways:

- a. Preparation of a subdivider agreement in accordance with Section 2.4.10(G)(5), Subdivider agreement;
 - b. Provided to the City a surety device in accordance with Section 6.10, Improvement guarantees for private improvements and provided to the City a surety device in accordance with Section 7.4, Improvement guarantees for public improvements;
- (vi) Include the following certificates, which shall be signed by the subdivider and the LDR Administrator:
- a. Certificate of subdivider's surveyor;
 - b. Certificate of City's review surveyor;
 - c. Certificate of approval by County Health Department, if applicable;
 - d. Certificate of approval by the Attorney for the City;
 - e. Certificate of approval by the City Commission; and
 - f. Certificate of filing with the Alachua County Clerk of Court.
- (e) *Recordation.* The subdivider shall file the approved final plat for subdivision with the Alachua County Clerk of Courts for recording within 180 days after the date of approval of the final plat or the final plat shall be null and void.
- (f) *Completion of required public and private improvements prior to issuance of certificate of occupancy.* Public and private improvements shall be completed in accordance with the terms and conditions of the subdivider agreement, inspected, and approved in accordance with Section 2.4.10(G)(7), Inspection of public and private improvements, prior to the issuance of the first certificate of occupancy for development within the subdivision.
- (g) *Effect of final plat.* The approval of a final plat shall not be deemed to constitute or affect the acceptance by the City of the dedication of any street, public utility line, or other public facility within or serving the subdivision. Upon satisfactory completion of the one-year warranty period (Section 2.4.10(G)(8)), streets, utility lines, and other public improvements shall be accepted by the City. However, the City may by resolution accept any dedication of lands or facilities for streets, parks, or public utility lines. The City has no obligation to improve any street even after acceptance of dedication.
- (7) *Inspection of public and private improvements.*
- (a) Following the execution of a subdivider agreement (Section 2.4.10(G)(5)), the subdivider may construct and install all required public and private improvements in accordance with the construction plans and the terms and conditions of the subdivider agreement. Following construction, the subdivider shall submit a request for inspection of public and private improvements to the Public Services Director.
 - (b) The Public Services Director shall have 60 days after the request for inspection to cause the inspections to be performed and receive certification that the public and private improvements are constructed in accordance with the requirements of these LDRs or to provide the subdivider with a list specifying all defects, deficiencies, and required repairs.
 - (c)

The subdivision's engineer of record shall submit a certified cost of construction for public and private improvements subject to inspection. This certified cost of construction shall be the basis for the amount of the surety device for the warranty period.

(8) *Warranty period following passing inspection.*

- (a) Following approval of required public and private improvements in accordance with this section, a one-year warranty period begins. The subdivider shall be responsible for making all repairs so long as notice is sent or delivered to the subdivider within the one year warranty period. Following the warranty period, the subdivider shall request a final inspection of the improvements by the Public Services Director, who shall have 60 days to complete the final inspection. Upon completion of the final inspection. The Public Services Director shall provide the subdivider with a final inspection report which identifies any needed repairs. The warranty period shall be extended until the Public Services Director has determined no further repairs are needed. Upon completion of all needed repairs and the correction of any deficiencies, the subdivider shall request an inspection of the repairs by the Public Services Director, who shall have 30 days to complete the inspection of the repairs. Upon the determination of the Public Services Director that the improvements have been constructed in accordance with the construction plans and no further repairs are needed to the improvements, as-built drawings of all infrastructure shall be submitted prior to acceptance of full maintenance responsibility.
- (b) Within 60 days of the Public Services Director's determination that the improvements have been constructed in accordance with the infrastructure plan and no repairs are needed to the improvements, the City Commission shall formally accept the public infrastructure. Following the acceptance of the public infrastructure, the City shall return any the balance of the surety instrument provided for the warranty period.
- (c) Nothing in these LDRs shall be construed as meaning that the City Commission shall take over for maintenance any road, street, utility, public parking or other public area, or stormwater management facilities related thereto, except those designed and built in accordance with the requirements of this section, other City laws, ordinances, and design standards, that are expressly accepted for maintenance by specific action of the City Commission.

State Law reference— Provisions to regulate subdivision of land required, F.S. § 163.3202(2)(a).

2.4.11 *Sign permit.*

- (A) *Purpose and applicability.* Signs regulated by Section 6.5, Signage, but not covered by the provisions of general sign permits, shall be erected, installed, or created only in accordance with a duly issued and valid sign permit from the Land Development Regulations Administrator. Such a permit shall be issued only in accordance with the following requirements and procedures.
- (B) *Sign permit procedure.* An application for construction, creation, or installation of a new sign or for a modification of an existing sign shall be accompanied by detailed drawing to show the dimensions, design, structure, and location of each particular sign. One application and permit may include multiple signs on the same development site.
 - (1) All applications for sign permits of any kind shall be submitted to the building official on an application form provided by the building official or in accordance with application specifications published by the building official.
 - (2)

Each application for a sign permit shall be accompanied by the applicable fees, which shall be established by the City Commission from time to time by resolution.

- (3) Within five business days of receiving an application for a sign permit, the LDR Administrator shall review it for completeness. If the LDR Administrator finds that it is complete, the application shall then be processed. If the LDR Administrator finds that it is incomplete, the LDR Administrator shall within such five-day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the application subsections of this section or to the application form or application specifications provided by the building official.
 - (4) Within seven days of the acceptance of a complete application for a sign permit, the LDR Administrator shall either:
 - (a) Issue the sign permit, if the signs that are the subject of the application conform in every respect to this section and other provisions of the LDRs and the Florida Building Code; or
 - (b) Deny the sign permit if the signs that are the subject of the application fails in any way to conform to this section or other applicable provisions of the LDRs or the Florida Building Code. In case of a denial, the LDR Administrator shall specify in the notice of rejection the subsections of this section or other applicable portions of the LDRs or Florida Building Code with which the signs are not consistent.
- (C) *General sign permit granted.* A general sign permit is granted for the following types of signs or activities in any district (unless expressly stated otherwise), provided the signs are erected and maintained in compliance with the standards of this section and the standards for the district in which the sign is located.
- (1) Temporary signs allowed under Section 6.5.5, Temporary signs allowed, except for accessory signs for new development and temporary banners, shall be erected in conformance with this section.
 - (2) The changing of copy on any existing sign.
 - (3) Performing required or routine maintenance on a sign, except that this general sign permit shall not waive the requirement to obtain building or electrical permits when the nature of the work requires such permits under the Florida Building Code.
 - (4) Traffic signs, such as "Stop" and "Yield" signs, where such signs conform to the standards of the Federal Highway Administration's (FHWA) Manual on Uniform Traffic Control Devices (MUTCD) adopted by the State of Florida as Rule 14-15.010, F.A.C., and the Standard Highway Signs, English edition, 2004, and bear no commercial message.
 - (5) On-site signs providing directions to distinct subareas or use areas of a large development or other information, provided that such signs shall:
 - (a) Not have any message that is legible from a public street or sidewalk;
 - (b) Not exceed six square feet in sign area, four feet in length, and eight feet above grade; and
 - (c) Shall be located at least 150 feet from any other private directional sign on the same lot or site.
 - (6) Incidental signs, such as wall signs or freestanding signs of less than two square feet providing information or instructions, such as "Exit," "Restrooms," "Telephone," or "No Trespassing." If freestanding, such incidental signs shall not be more than three feet in height.

State Law reference— Provisions to regulate signage required, F.S. § 163.3202(2)(f).

2.4.12 *Temporary use permit.*

- (A) *Applicability.* The provisions of this subsection shall apply to all proposed temporary uses as set forth in [Section 4.5](#), Temporary uses and structures.
- (B) *Procedure.*
 - (1) *Submission and review of application.* The procedures and requirements for submission and review of an application are established in [Section 2.2](#), Common development review procedures.
 - (2) *Action by LDR Administrator.* The LDR Administrator shall review the application in accordance with Section 2.2.13, Review by LDR Administrator.
- (C) *Temporary use standards.* A temporary use permit shall be approved upon a finding the temporary use, as proposed, complies with the relevant standards in [Section 4.5](#), Temporary uses and structures.
- (D) *Conditions of approval.* In approving a temporary use permit, the LDR Administrator may impose appropriate conditions on the permit approval in accordance with Section 2.2.14, Conditions of approval.
- (E) *Expiration.* A temporary use permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit.
- (F) *Amendment.* A temporary use permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.
- (G) *Appeal of decision of LDR Administrator.* Any person aggrieved or affected by a decision of the LDR Administrator may appeal such decision to the BOA in accordance with Subsection 2.4.20 of this section, Appeal of interpretations or decisions by LDR Administrator.

2.4.13 *Special event permit.*

- (A) *Applicability.* The provisions of this section shall apply to all proposed special events as set forth in Section 4.6, Special events.
- (B) *Procedure.*
 - (1) *Submission and review of application.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
 - (2) *Action by LDR Administrator.* The LDR Administrator shall review the application in accordance with Section 2.2.13, Review by LDR Administrator.
- (C) *Special event permit standards.* A special event permit shall be approved upon a finding the special event, as proposed, complies with the relevant standards in Section 4.6, Special events.
- (D) *Conditions of approval.* In approving a special event permit, the LDR Administrator may impose appropriate conditions on the permit approval in accordance with Section 2.2.14, Conditions of approval.
- (E) *Expiration.* A special event permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit.
- (F) *Amendment.* A special event permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.
- (G) *Appeal of decision of LDR Administrator.* Any person aggrieved or affected by a decision of the LDR Administrator may appeal such decision to the BOA in accordance with Subsection 2.4.20 of this section, Appeal of interpretation or decision by LDR Administrator.

2.4.14 *Certificate of concurrency compliance.*

(A) *Purpose.* The purpose of this section is to provide a mechanism for reviewing applications for development approval to ensure that no development order is issued unless there is adequate public facility capacity for roads, sanitary sewer, solid waste, stormwater management, potable water, or recreation facilities. This purpose is accomplished by establishing:

- (1) A regulatory program that ensures the adopted level of service (LOS) standard for each public facility is available to serve development concurrent with the impacts of development; and
- (2) A management and monitoring system is established to evaluate and coordinate the timing and provision of the necessary public facilities to service development.

(B) *Applicability.* Unless exempted by Subsection 2.4.14(C) of this section, Exemptions, the provisions of this section shall apply to all development orders specified in Subsection 2.4.14(D) of this section, Overview of certificates. A separate certificate of concurrency compliance shall not be required for each permit approval associated with an individual development order.

(C) *Exemptions.* The following forms of development shall be exempt from the requirements of this section:

- (1) Projects determined to be vested from the concurrency requirements in these LDRs;
- (2) A facility that is not subject to the concurrency requirements of the LDRs as a result of State or Federal law;
- (3) Development with a de minimis, or no impact on public facility levels of service as determined by the LDR Administrator;
- (4) Building permits for individual single-family dwellings (including mobile homes) and accessory uses on existing lots of record, as of the effective date of the LDRs;
- (5) Building permits required to bring existing structures into compliance with the LDRs;
- (6) Sign permits (Subsection 2.4.11 of this section);
- (7) Temporary use permits for temporary sales (Subsection 2.4.12 of this section);
- (8) Special event permits (Subsection 2.4.13 of this section);
- (9) Tree removal permits (Subsection 2.4.17 of this section);
- (10) Construction of public facilities identified in the CIE of the Comprehensive Plan; and
- (11) Public facilities budgeted, but not identified in the CIE of the Comprehensive Plan.

(D) *Overview of certificates.* Certificates of level of service standard shall be issued by the LDR Administrator concurrent with the issuance of a preliminary development order, and certificates of concurrency compliance shall be issued by the LDR Administrator concurrent with decisions for final development orders. Preliminary and final development orders shall include the following:

- (1) *Preliminary development orders.*
 - (a) Site-specific amendments to the Official Zoning Atlas (Subsection 2.4.2 of this section);

- (b) Planned development master plans (Subsection 2.4.3(D) of this section);
- (c) Special exception permits (Subsection 2.4.4 of this section);
- (d) Certificates of appropriateness (Subsection 2.4.6 of this section);
- (e) Variance permits (Subsection 2.4.7 of this section);
- (f) Administrative adjustments (Subsection 2.4.8 of this section);
- (g) Major subdivision preliminary plats (Subsection 2.4.10(G) of this section); and
- (h) Special permits (Subsection 2.4.16 of this section).

(2) *Final development orders.*

- (a) Site plans (Subsection 2.4.9 of this section);
- (b) Minor site plans (Subsection 2.4.9(J) of this section);
- (c) Minor subdivisions (Subsection 2.4.10(F) of this section);
- (d) Final plats (Subsection 2.4.10(G) of this section); and
- (e) Final PD plans (Subsection 2.4.3(E) of this section).

(E) *Level of service (LOS) standards.* The level of service (LOS) standards adopted for roads, sanitary sewer, solid waste, stormwater management, potable water, and recreation facilities are those adopted in the Comprehensive Plan, which is incorporated herein by reference.

(F) *Nonbinding determination of available capacity.* If an applicant desires to determine whether there is sufficient capacity to accommodate their proposed development prior to submittal of an application for a preliminary development order, the applicant shall submit an application for nonbinding determination of available capacity. Then, within 30 days from submittal of a complete application, the LDR Administrator shall make an informal nonbinding determination of whether there appears to be sufficient capacity in the public facilities and services to satisfy the demands of the proposed development. If there appears to be insufficient capacity, the LDR Administrator shall then make a nonbinding determination of what public facilities or services would be deficient if the proposed development were approved.

(G) *Requirements for certificate of concurrency compliance.* Except for development that is vested from concurrency requirements, or exempt (see Subsection 2.4.14(C) of this section), no final development order shall be approved unless it is determined the necessary public facilities will be available concurrent with the impacts of the proposed development. The burden of meeting this requirement will be on the applicant requesting a certificate of concurrency compliance. The criteria for determining whether the public facilities affected by the development will be available concurrent with the impacts of proposed development shall be based on the following standards:

(1) *Sanitary sewer, solid waste, storm water management facilities, and potable water.* For sanitary sewer, solid waste, stormwater management and potable water:

- (a) A development order is issued subject to the condition that, at the time of the issuance of a certificate of occupancy, the necessary facilities and services are in place and available to serve the new development; or
 - (b) At the time the development order is issued, the necessary facilities and services are guaranteed to be in place and available to serve new development at the time of the issuance of a certificate of occupancy in an enforceable development agreement, pursuant to the Florida Local Government Development Agreement Act (F.S. § 163.3220 et seq.) or an agreement or development order issued pursuant to F.S. ch. 380.
- (2) *Parks.* For parks:
- (a) At the time the development order is issued, the necessary facilities and services are in place or under actual construction;
 - (b) A development order is issued subject to the condition that, at the time of the issuance of a certificate of occupancy, the acreage for the necessary facilities and services to serve the new development is dedicated or acquired by the City, or funds in the amount of the developer's fair share are committed;
 - (c) A development order is issued subject to the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction not more than one year after issuance of a certificate of occupancy as provided in the adopted five-year schedule of capital improvements;
 - (d) At the time the development order is issued, the necessary facilities and services are the subject of a binding executed agreement which requires the necessary facilities and services to serve the new development to be in place or under actual construction not more than one year after issuance of a certificate of occupancy; or
 - (e) At the time the development order or permit is issued, the necessary facilities and services are guaranteed to be in place or under actual construction not more than one year after issuance of a certificate of occupancy in an enforceable development agreement, pursuant to the Florida Local Government Development Agreement Act (F.S. § 163.3220 et seq.) or an agreement or development order issued pursuant to F.S. ch. 380.
- (3) *Roads.* For roads:
- (a) At the time a development order is issued, the necessary facilities and services are in place or under construction; or
 - (b) A development order is issued subject to the conditions that the necessary facilities and services needed to serve the new development are scheduled to be in place or under actual construction as provided in the adopted five-year schedule of capital improvements not more than three years after issuance of a certificate of occupancy. The schedule of capital improvements may recognize and include transportation projects included in the first three years of the applicable, adopted Florida Department of Transportation five-year work program.

(H) *Information and general methodology to be used for concurrency determination.*

- (1) *Basis for concurrency determination.* The information and methodology to be used by the LDR Administrator as the basis for concurrency determinations shall include:
- (a) The maximum service volume of each public facility affected by the proposed development based on the adopted level of service standards;

- (b) The existing demand on each public facility affected by the proposed development;
 - (c) Any reservation of capacity on each affected public facility for approved development; and
 - (d) Proposed development impacts (the projected or estimated portion of the capacity of the affected public facility to be used by the proposed development).
- (2) *Affected roadway segments.* For the purposes of making concurrency determinations, affected roadway facilities shall be determined as follows:
- (a) *Development generating 1,000 or fewer trips.* For proposed developments generating less than or equal to 1,000 external average daily trips (ADT), affected roadway segments are all those wholly or partially located within one-half mile of the development's ingress/egress, or to the nearest intersecting major street, whichever is greater.
 - (b) *Developments generating more than 1,000 trips.*
 - (i) For proposed developments generating greater than 1,000 external average daily trips (ADT), affected roadway segments are those on which the development's impacts are five percent or greater of the maximum service volume of the roadway; and
 - (ii) The study area for proposed developments generating greater than 1,000 external average daily trips (ADT) shall include all roadway segments located partially or wholly within one-half mile of the development's ingress/egress, or to the nearest major intersection, whichever is greater.
- (3) *Availability of public facility capacity.* The necessary public facilities will be deemed available concurrent with the impacts of the proposed development if the sum of proposed development impacts when added to the existing demand and the capacity reservations are less than the maximum service volume on the affected facilities.
- (I) *Procedure.*
- (1) *Issuance of a certificate of level of service standard.*
- (a) *Timing.* Unless vested from concurrency requirements, or exempt in accordance with Subsection 2.4.14(C) of this section, Exemptions, an applicant shall apply for a certificate of level of service standard no later than the time of application for development permit associated with a preliminary development order. (See Subsection 2.4.14(D)(1) of this section.)
 - (b) *Contents.* The application shall contain the appropriate traffic documentation required in Subsection 2.4.14(G)(3) of this section, or the documentation supporting any assertion of de minimis impact.
 - (c) *Review.* The LDR Administrator shall review the application in accordance with the procedures in Section 2.2, Common development review procedures, for each public facility affected by the proposed development, and shall provide an assessment of whether the concurrency requirements of this section are met for each public facility as part of the staff report. (See Section 2.2.7.)
 - (d) *Issuance.* The LDR Administrator shall issue a certificate of level of service standard within five business days of the appropriate decision-making body's action on the preliminary development order. The certificate of level of service standard shall indicate the following:

- (i) If the proposed development's impacts are considered de minimis impacts;
 - (ii) If the requirements for concurrency will be met, subject to any limitations indicated by the public facility provider, based on the preliminary development order;
 - (iii) If the development does not have de minimum impacts, and the concurrency requirements are not met, what deficiencies will have to be addressed in the final development order for a certificate of concurrency compliance to be issued; and
 - (iv) Any additional information to be submitted with the final development order application.
- (e) *Amendment.* In the event an applicant seeks to increase the density or intensity of a development subject to a certificate of level of service standard, the applicant shall submit the proposed increases in densities or intensities and all other relevant information to the LDR Administrator for an amended certificate of level of service standard to be issued. The amended certificate of level of service standard approval must be obtained by the applicant prior to application for final development order approval by the appropriate decision-making body.
- (2) *Issuance of a certificate of concurrency compliance.* The certificate of level of service standard may be submitted with an application for a final development order as the basis for a certificate of concurrency compliance, which shall be approval of the final development order by the appropriate decision-making body, provided all of the following conditions are met:
- (a) The final development order is submitted and determined to be complete by the LDR Administrator prior to the expiration date of a valid certificate of level of service standard;
 - (b) Any conditions identified in the certificate of level of service standard are adequately addressed and are contained in the final development order application; and
 - (c) The intensities and densities requested for the final development order approval do not exceed those approved for the preliminary development order, unless the applicant has applied for and been issued an amended certificate of level of service standard addressing the impacts of the increased densities or intensities requested and finding that adequate capacity will be available for each affected public facility.

(J) *Period of validity.*(1) *Certificate of level of service standard.*

(a) A certificate of level of service standard is valid for 180 days from the date of assessment by the LDR Administrator.

(b)

For projects associated with a phased subdivision or planned development (PD), the certificate of level of service standard may be issued for time periods established by the phasing schedule of the subdivision or PD Master Plan, provided that the applicant demonstrates that LOS standards can be met for the timeframes established. In no instance, may the certificate of level of service standard for a PD or subdivision be valid for greater than a ten-year timeframe.

- (c) If there are changes to a proposed development's timing, the proposed density or intensity increases, or if the certificate of level of service standard expires, then an amended certificate of level of service standard must be obtained through the appropriate process. An amended certificate of level of service standard is valid for 180 days from the date of reassessment by the LDR Administrator.
- (2) *Certificate of concurrency compliance.*
 - (a) *Period of validity.* The certificate of concurrency compliance shall be valid for a period of one year from date of issuance by the LDR Administrator, unless otherwise specified in the final development order, after which time it shall be void unless substantial construction has commenced prior to expiration of the one-year period, or other period specified in the final development order, or an extension of no more than one year has been granted by the LDR Administrator for good cause shown.
 - (b) *Extensions.* Extensions shall only be issued if no imminent or existing public facility deficiencies exist at the time of the application for extension. Denial of an extension by the LDR Administrator may be appealed to in accordance with this Subsection 2.4.20 of this section, Appeal of interpretation or decision by LDR Administrator.
 - (c) *Capacity reservation.*
 - (i) Provided that substantial construction has commenced within the allowable period, the development shall have reserved capacity for a period of no more than two years from commencement of construction.
 - (ii) After expiration of the two-year period, or any period otherwise specified in the certificate of concurrency compliance, the public facility capacity required to accommodate the impacts of the unconstructed portions of the development may be made available to other proposed developments applying for a certificate of concurrency compliance.
 - (iii) Allocation of this unused capacity shall be based on a management plan approved by the City Commission to address any deficiencies or imminent deficiencies identified in the annual concurrency status report prepared pursuant to Subsection 2.4.14(M) of this section, Monitoring and management.
- (K) *Denial of certificate of concurrency compliance.*
 - (1) *Denial notice.* If it is determined that the requirements for concurrency cannot be met for any public facility impacted by a proposed development, a certificate of concurrency denial notice identifying the facilities that were determined not to be concurrent, the level of service deficiency, and the impact assessment that was the basis for that determination will be issued by the LDR Administrator.
 - (2)

Request for reconsideration. Upon receipt of a denial notice, the applicant may submit a request for reconsideration by the LDR Administrator within 30 days. Such request shall be accompanied by a proposed alternative impact assessment demonstrating that impacts will not violate concurrency requirements, or proposed options to remedy the deficiency or deficiencies. Such options may include:

- (a) Modification of the density, intensity or timing of the proposed development with identification of how the modifications will remedy the deficiency that was the basis for the denial;
- (b) Measures to mitigate the deficiency, including an action plan to reduce the impacts of the proposed development on the affected public facilities that were determined not to be concurrent, such as demand management measures to be incorporated as conditions of a final development order; or
- (c) Proposed improvements to the affected public facility that will be sufficient to offset the impacts of the proposed development resulting in the failure to meet concurrency. Such improvements may be included by the applicant as part of a development agreement or proposed as an amendment to the Comprehensive Plan in the form of projects to be included in the capital improvement program of the Comprehensive Plan or amendments to adopted level of service standards.

(3) *Response to request for reconsideration.* The request for reconsideration shall be reviewed and approved, approved with conditions, or denied by the LDR Administrator within 45 days of the receipt of the request for reconsideration, based on the standards of this section. If the proposal requires approval by a decision-making body in the City, the applicant shall be informed of the process to be followed to apply for such approval.

- (L) *Appeal of decision of LDR Administrator.* Any person aggrieved or affected by a decision of the LDR Administrator may appeal such decision to the BOA in accordance with Subsection 2.4.20 of this section, Appeal of interpretation or decision by LDR Administrator.
- (M) *Monitoring and management.* In order to ensure that adequate capacity for roads, sanitary sewer, solid waste, stormwater management, potable water, and recreation facilities is available concurrent with the impacts of development occurring on those public facilities, a monitoring and management program shall be implemented to evaluate the conditions of those public facilities subject to concurrency on an ongoing basis. This management program shall consist of the following components:
 - (1) *Development monitoring report.* Monthly permit activity and available public infrastructure capacity needed to support development shall be monitored in a quarterly development monitoring report. The report shall assess the impacts of development on the City's adopted LOS standards, including development that has been issued a certificate of level of service standard or a certificate of concurrency compliance. Required public facility improvements identified in this report shall be included for consideration as capital improvement projects to be programmed in the City's capital improvements program, and shall be identified in the annual concurrency status report.
 - (2) *Capital improvements program.* The capital improvements program (CIP) shall be updated annually, and the most current adopted CIP shall be used by the LDR Administrator in making concurrency determinations. The CIP is used to identify capital improvements that will contribute to the maintenance of the level of service standard adopted for that facility in the capital improvements element. The City shall identify any capital improvements that would be required to remedy level of service deficiencies that have resulted in any certificate of concurrency compliance denials.

- (3) *Annual concurrency status report (ACSR).* By May 1 of each year, the LDR Administrator shall provide an annual concurrency status report (ACSR) to the City Commission that includes:
- (a) The available capacity of all public facilities subject to concurrency requirements based on their levels of service and the most recent development monitoring report;
 - (b) A forecast of the capacity of existing and planned public facilities identified in the five-year capital improvements schedule;
 - (c) Any deficiencies or projected deficiencies and remedial action for consideration by the City Commission, including, but not limited to:
 - (i) Critical facilities for which deficiencies are imminent, and identification of areas within which development may be affected by denial of certificates of concurrency compliance;
 - (ii) Public facility project additions to the CIE/CIP;
 - (iii) Deferral of final development orders in affected areas pending:
 - a. Lowering LOS via a Comprehensive Plan amendment;
 - b. Inclusion of necessary public facility projects in the adopted annual budget and annual CIE/CIP update;
 - c. Approval of new or increased revenue sources for needed public facility projects by the City Commission, the State Legislature, or City voters;
 - (iv) A management plan including guidelines for allocation of scarce public facility capacity among applicants for development approval and previously approved developments which are not vested for concurrency; and
 - (d) Information on certificate of concurrency compliance denials and proposals to address denials.

State Law reference— Concurrency, F.S. §§ 163.3202(2)(g), 163.3180, 163.3182.

2.4.15 *Certificate of LDR compliance.*

- (A) *Purpose.* A certificate of LDR compliance shall be required in accordance with the provisions of this section in order to ensure that proposed development complies with the standards of these LDRs, and to otherwise protect the public health, safety, and welfare of the citizens of the City.
- (B) *Applicability.* The requirements of this section shall apply to any development that requires a building permit, any change of use, and for any buildings, structures or facilities for which a floodplain development permit or approval is required by Section 6.9.4(D)(3) of these LDRs.

- (C) *Certificate of LDR compliance requirement.* No building permit shall be issued, change of use occur, or development occur wholly or partially within any flood hazard area when a floodplain development permit or approval is required by Section 6.9.4 of these LDRs without approval of a certificate of LDR compliance by the LDR Administrator in accordance with this section.
- (D) *Procedure.*
 - (1) *Submission and review of application.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
 - (2) *Action by LDR Administrator.* The LDR Administrator shall review the application and in accordance with the procedures and requirements of Section 2.2.13, Review by LDR Administrator.
- (E) *Certificate of LDR compliance standards.* A certificate of LDR compliance shall be approved upon a finding the application complies with all relevant standards of these LDRs.
- (F) *Temporary certificate of LDR compliance.* A temporary certificate of LDR compliance may be issued by the LDR Administrator for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as are necessary in the circumstances to protect the safety of occupants and the general public.
- (G) *Expiration.* When a building permit is required, such building permit shall be issued within six months of the date of issuance of the certificate of LDR compliance. If a building permit is not issued within six months of the date of issuance of the certificate of LDR compliance a certificate of occupancy shall not be issued, and the certificate of LDR compliance shall expire and be void.
- (H) *Effect.*

- (1) Failure to obtain a certificate of LDR compliance prior to development activity shall be a violation of these LDRs, subject to the penalties and remedies in Article 9, Enforcement and Remedies.
 - (2) Use, arrangement or construction different from that authorized by a certificate of LDR compliance shall be a violation of these LDRs subject to the penalties and remedies in Article 9, Enforcement and Remedies.
- (I) *Amendment.* A certificate of LDR compliance may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.
- (J) *Appeal of decision of LDR Administrator.* Any person aggrieved or affected by a decision of the LDR Administrator may appeal such decision to the BOA in accordance with Subsection 2.4.20 of this section, Appeal of interpretation or decision by LDR Administrator.

2.4.16 *Special permits.*

- (A) *Purpose.* The purpose of this section is to provide a means for reviewing applications for structures to be located on or in surface waters, and development (outside of normal construction activities) proposing to add or remove rock, soil or other fill material, either on land or in water. This type of development requires individual review of its location, configuration, operation and public facility impact to determine the appropriateness of such activities on adjacent development and the environment. Special permits may require the imposition of conditions to ensure the appropriateness of the development at a particular location. Mining activities are expressly prohibited within the City limits.
- (B) *Applicability.*
- (1) *Generally.* Except for development exempted in accordance with Subsection 2.4.16(B)(2) of this section, Exemptions, a special permit shall be required for all of the following development:
 - (a) Construction of bulkheads, docks, piers, wharfs or similar structures;
 - (b) Land and/or water filling; and
 - (c) Dredging and/or excavation.
 - (2) *Exemptions.* The following development is exempt from the standards and procedures of this section:
 - (a) *Normal construction activity.* Land excavation or land filling activity undertaken in accordance with an approved building permit or site plan.
 - (b) *Construction or maintenance of a public facility.*
 - (i) On-site excavation and/or filling in connection with the construction of a public facility or public improvement carried out under the supervision of the Public Services Director, or in connection with the construction of a public road.
 - (ii) On-site land excavation and/or filling in connection with maintenance or repair of a public facility or public improvement carried out under the supervision of the Public Services Director, or in connection with the maintenance or repair of a public road.

(c)

Less than 200 yards of material. Filling or excavation activities which involve the removal or filling of less than 200 cubic yards of material at a single site located outside of a floodplain or conservation area identified in the Comprehensive Plan.

- (d) *Emergency repair.* Filling or excavation activity undertaken in connection with the emergency filling of a newly formed or newly expanded sinkhole, or severe erosion problem, or other subsidence affecting the public health, safety or welfare, as determined by the LDR Administrator.

(C) *Procedure.*

- (1) *Preapplication conference mandatory.* Special permits for land and/or water filling, dredging, and/or excavation are required to have a preapplication conference prior to submission of an application in accordance with Section 2.2.3, Preapplication conference.
- (2)

Initial submission of application and staff review. The procedures and requirements for submission and review of an application are established in [Section 2.2](#), Common development review procedures. In addition, applications for special permits shall be accompanied by a site plan that depicts the location and extent of activities being proposed in accordance with Section 2.4.9, Minor site plans, site plans, and infrastructure plans.

- (3) *Review and recommendation by PZB.* After preparation of a staff report, the application shall be referred to the PZB by the LDR Administrator for consideration at one of its regularly scheduled meetings. At the meeting, the PZB shall consider the application, the relevant support materials, the staff report, and any other comments provided on the application at the meeting, and recommend to the City Commission to either approve, approve with conditions, or deny the application based on the standards in Subsection 2.4.16(D) of this section, Special permit standards. The PZB shall then forward the recommendation to the City Commission.
 - (4) *Review and action by City Commission.* After receipt of the recommendation from the PZB, the City Commission shall consider the application at a regularly scheduled meeting. At the meeting, the City Commission shall consider the application, the relevant support materials, the staff report, the recommendation of the Planning Commission, and any other comments provided on the application at the meeting, and then approve, approve with conditions, or disapprove the application based on the standards in Subsection 2.4.16(D) of this section, Special permit standards.
- (D) *Special permit standards.* Special permits shall be approved upon finding the applicant demonstrates all of the following standards are met:
- (1) *Consistent with Comprehensive Plan.* The proposed activity is consistent with the Comprehensive Plan. Excavation and filling activities are not be permitted in, and where applicable, adjacent to, conservation areas as defined by the Comprehensive Plan. (Exceptions to this standard shall be granted upon successful demonstration by the applicant that the proposed development does not conflict with the conservation objectives of the City.)
 - (2) *No adverse affect on local character.* The proposed activity will not adversely affect the character of the general area where it is proposed to be located by creating excessive traffic, noise, lights, or other physical effects or nuisances.
 - (3) *No adverse effect on the environment.* The proposed activity will not result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.
 - (4) *Additional authorization required.* If State or Federal authorization is required for any activities or structures which require a special permit, such authorization is obtained prior to issuance of a building permit.
 - (5) *Groundwater quality monitoring plan.* A groundwater quality monitoring plan is provided for excavation and/or filling activities which are conducted in areas where previous land excavation and/or land filling activities may have degraded groundwater quality, or in instances where there is evidence that materials other than those materials permitted under this section have been disposed of on the land. The groundwater quality monitoring plan shall include the following:
 - (a) Proposed depth, locations, and construction details for monitor wells;
 - (b) A proposed groundwater sampling program with anticipated sampling schedule and parameter coverage; and
 - (c) A reclamation and reuse plan which shall include the following:

- (i) A description of the manner in which restructuring, reshaping, and/or revegetation will be accomplished;
- (ii) At least two typical cross sections and contours showing areas to be filled, backfilled, restructured and/or reshaped, and revegetated. Water areas and water level elevations shall be shown when lake creation is part of the reclamation plan;
- (iii) All fences, walls, berms, or vegetative buffers that are required or proposed as part of the reclamation plan;
- (iv) The type and location of vegetation to be placed on the site and provisions for restabilization of the reclaimed areas, including details of erosion control methods to be utilized;
- (v) An analysis of how proposed reuse of the land complies with the Comprehensive Plan and how proposed reuse relates to existing and planned uses in the surrounding area. Where a conflict exists between the reuse plan and these uses, the reuse plan will contain a description of how these conflicts will be resolved;
- (vi) A timetable detailing how and when the reclamation and reuse plan will be implemented after the land excavation and land filling activity has been completed;
- (vii) An affidavit signed by both the applicant and the landowner (if different) stating that the reclamation plan will be completed in accordance with the requirements of these LDRs and the approved plan;
- (viii) Unless the site is owned and operated by a unit of the local, State, or Federal government, financial assurance that the reclamation plan will be completed in accordance with Section 6.10, Improvement guarantees;
- (ix) An irrevocable right of inspection and/or reclamation activities by the City, which shall be signed by the landowner, and shall be effective for the duration of not less than two years beyond the expiration of the special permit (or extensions thereof);
- (x) A site plan or other appropriate document to be recorded with the Alachua County Clerk of Court, which discloses the existence, location and specifications of an excavation and/or filling activity within the land subject to a special permit;
- (xi) A change of site ownership shall require a revision to the approved improvement guarantee and a revised irrevocable grant of inspection and/or reclamation activities by the City, signed by the new landowner. The special permit shall be deemed suspended until these revised documents are submitted and approved.

(6) *Minimum operating standards.*

(a) *Generally.*

- (i) These standards shall apply to the design of any land excavation and/or land filling activity permitted in accordance with this section. It shall also apply to the operation of such activity after approval. Additional conditions, or increases in these standards, may be required at the time of special permit approval in accordance with Section 2.2.14, Conditions of approval.
- (ii)

Exceptions to these standards may be approved by the City Commission when such exceptions do not cause substantial harm to the public health, safety, or welfare, and do not create hazards or dangers to the environment or prevent the appropriate use and development of surrounding parcels of land. In granting exceptions to these standards for existing excavation and/or filling operations, consideration shall be given to the ability of such existing operations to meet these standards, and the past safety and/or nuisance performance of existing operations.

- (b) *Water quality.* Land excavation and/or land filling activities shall not have an adverse impact on surface water or groundwater quality. Activities shall conform to the requirements of Chapter 62, Florida Administrative Code, and the following:
- (i) Excavation in areas where the Floridan Aquifer is unconfined shall not be allowed at depths greater than 15 feet above the top of the aquifer unit.
 - (ii) Where excavation at depths below the top of the surficial aquifer system requires the use of dewatering procedures, such procedures shall not have an adverse effect on surface water or groundwater quality or on loss of storage in the surficial aquifer system.
 - (iii) Filling shall not be allowed in surface water, except as provided in Chapters 62-4 and 62-312 (Dredge and fill activities), Florida Administrative Code. Filling shall not be allowed in groundwater of the State of Florida or intermediate aquifer systems. Filling may be allowed in groundwater of the surficial aquifer system, but shall be limited to clean soil or rock materials (sand, clay or limestone). Filling in limestone pits or quarries shall be limited to clean soil or rock materials (sand, clay or limestone). Exceptions to these standards may be considered if liners, leachate collection systems and cover systems are proposed for a site.
 - (iv) Disposal of the following categories of materials in land filling sites is prohibited:
 - a. All types of solid waste (Chapter 62-701, Florida Administrative Code), and all hazardous materials and hazardous waste so designated by the US EPA, the FDEP and local health and environmental protection agencies;
 - b. All biomedical wastes that may cause pathogenic contamination of the water resources; and
 - c. Industrial chemicals, petroleum products, putrescible household waste and other materials that would contaminate permitted fill material.
 - (v) Land excavation and/or filling operations shall not significantly alter the existing hydrologic characteristics of the water levels of either surface water or groundwater on surrounding lands. Where a problem is anticipated as a result of known soil and hydrological factors (i.e., because of physical conditions and/or experience with other excavation or filling sites in the area), dewatering potentials of land excavation operations shall be evaluated by conducting an on-site field investigation of horizontal permeability in materials that are representative of the section to be dewatered. Results of testing and impact analysis shall be certified by a qualified professional geologist or a professional engineer registered by the State of Florida. The findings of this analysis shall be submitted with the materials for site plan approval.
- (c) *Setbacks.* Disturbed areas associated with land excavation and land filling activities (i.e., top-of-bank for excavation sites, and top-of-fill for filling sites) shall be set back no less than the distances set forth below, except that these setback requirements may be waived for the filling of existing low areas which would be considered a part of the main filling objective of the site, or for excavating to expand existing low areas to be used for stormwater management in the reclamation plan. Minimum setbacks shall be:

- (i) 25 feet from the right-of-way line of a public road;
 - (ii) 50 feet from the property line abutting either existing nonresidential (including agricultural or rural) land uses or land designated for nonresidential (including agricultural or rural) uses on the Comprehensive Plan;
 - (iii) 150 feet from the property line of any land designated for residential land uses on the Comprehensive Plan; and
 - (iv) 250 feet from a conservation area designated by the Comprehensive Plan.
- (d) *Buffering.* Where residential uses exist adjacent to or within 300 feet of the parcel involved in excavation or filling activities, the excavation or filling area(s) shall be buffered along the boundary of the property with a type D buffer 50 feet in width (Section 6.2.2(D)(3), Perimeter buffers).
- (e) *Fencing/gates.* The following security measures shall be required to discourage unauthorized dumping in, and trespassing on, the excavation or filling site:
- (i) A four-foot-high field-wire fence, with treated wood fence posts located on no more than 12-foot centers, shall be required around the entire site until the LDR Administrator has made a determination that final reclamation has been completed in accordance with the approved special permit.
 - (ii) A chainlink fence in accordance with the Section 6.3, Fencing standards, may be required in place of the required field-wire fence to ensure adequate security of an excavation or filling site.
 - (iii) A heavy-duty gate assembly shall be installed and maintained at all approved ingress and egress points.
 - (iv) All gates shall be kept locked at all times unless an official or other responsible employee of the owner or permit holder is actually present to supervise the site. A key to each gate shall be provided to the LDR Administrator for use during inspections.
 - (v) All fences and gates shall prominently display permanent "No Trespassing" signs at least every 500 feet.
- (f) *Grades.* The finished slopes of the site shall be no greater than 1:3 ratio at the time of reclamation completion.
- (g) *Hours of operation.* Excavation and filling activities shall be limited to daylight hours, Monday through Saturday. More limited hours of operation may be imposed at the time of approval of the special permit.
- (h) *Dust controls.* Excavation or filling activities shall be operated in a manner that will minimize fugitive dust emissions. Vegetation shall not be removed from any portion of the site until that specific area is to be excavated. Dirt roads within the site and unpaved public roads in the vicinity which are used for access to the project may require dust retardant treatment at the expense of the operator. Suppressants, as a dust retardant technique, shall be evaluated by the City and receive approval before their use is allowed.
- (i) *Transportation standards.* Excavation and/or filling operations shall be allowed only at sites served by roads adequate to accommodate the projected truck traffic. No haul route shall be on an interior road through a platted subdivision unless the excavation and/or filling site is specifically designed to facilitate the completion of the subdivision in which the haul route is located.
- (j)

Haul road maintenance. If a haul road contains an unpaved segment that is used primarily (more than 50 percent of the daily traffic volume) by the trucks hauling excavated or filling materials, the operator shall maintain the unpaved segment in satisfactory operating condition and shall control the dust generated by the local trucks.

- (k) *Benchmarks.* At least two surveyed benchmarks shall be established and clearly marked prior to the commencement of any excavation activity so that depth of excavation may be readily measured during inspections. Additional benchmarks may be required at any time by the LDR Administrator such that at least two are readily visible from any location within the disturbed portion of the site.
- (l) *Reuse as residential lands.* Areas utilized for excavation and/or filling activities shall not be reused for residential purposes. (Except where engineering data is submitted showing that there has been adequate compaction to allow the type of residential construction proposed, such data shall be prepared and sealed by a registered, professional engineer.)
- (E) *Conditions of approval.* In approving a special permit, the City Commission may impose appropriate conditions on the permit approval in accordance with Section 2.2.14, Conditions of approval.
- (F) *Time limit.* Any special permit approved or approved with conditions for land or water filling, dredging, excavation or mining shall be limited to a specific site and may not exceed five years in duration. Additional extensions may be granted by the City Commission for good cause shown, but in no case shall such extension exceed five years.
- (G) *Recordation.* The City Commission may require the applicant to record the special permit with the Alachua County Clerk of Court.
- (H) *Subsequent development.* Development authorized by the special permit shall not be carried out until the applicant has secured all other permits required by these LDRs or any other applicable provisions of the City. A special permit does not ensure that the development approved through the special permit procedure shall receive subsequent approval for other required applications for permit approval unless the relevant and applicable portions of these LDRs or any other applicable provisions are met.
- (I) *Effect.* Issuance of a special permit shall authorize only the particular development that is approved in the permit. A special permit, including any conditions, shall run with the land and not be affected by a change in ownership. Land subject to an approved special permit shall not be exempted from other relevant standards in these LDRs that are unrelated to the development permitted under the special permit.
- (J) *Expiration.*
 - (1) *Generally.* The City Commission may prescribe a time limit within which development shall begin or be completed on the special permit, or both. Failure to begin and/or complete such development within the time limit specified shall void the special permit. Unless specified otherwise by the City Commission, a special permit shall automatically expire:
 - (a) One year from the date of its issuance if:
 - (i) The development authorized by the permit has not commenced, and no substantial construction, alteration, demolition, excavation, or other similar work is required by the permit; or
 - (ii)

Less than ten percent of the total amount of development approved as part of the permit is completed, when construction, alteration, demolition, excavation, or other similar work is required.

(b) If the development approved by the special permit is discontinued and not resumed for a period of one year.

(2) *Extension.* Upon written application submitted at least 30 days prior to the expiration of the permit period by the applicant, and upon a showing of good cause, the City Commission may grant one extension not to exceed six months. The approval shall be deemed extended until the City Commission has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this section shall result in the expiration of the special permit.

(K) *Amendment.* A special permit may be amended, extended, or modified only in accordance with the procedures and standards established for its original approval.

2.4.17 Tree removal permits.

(A) *Purpose.* This section provides a mechanism for the removal of trees within the City.

(B) *Applicability.* The requirements of this section shall apply to the application for the removal of trees within the City, in accordance with the standards in Section 6.2.1, Tree protection standards.

(C) *Exemptions.* Exemptions to the requirements of this section are found in Section 6.2.1(F), Exemptions.

(D) *Procedure.*

(1) *Application.* Any person wishing to obtain a tree removal permit shall make application to the LDR Administrator on forms provided by the City. No permits shall be issued for the removal of champion or heritage trees, unless the conditions for approval are met under Subsection 2.4.16(E)(1), (E)(2) or (E)(4) of this section.

(2) *Review of application by LDR Administrator.* The LDR Administrator, utilizing such technical assistance as may be required, shall review all applications for tree removal and determine from among other considerations what effect the removal will have upon the drainage, topography, natural resources, ecology of the area, public safety and welfare, aesthetic value and the reasonable use of the site for development, and shall consider these factors in granting or denying said permit application.

(3) *Determination by LDR Administrator.* Within seven days of the filling of an application for a tree removal permit (except for site plan and major preliminary plat applications), the LDR Administrator shall attempt to verify the information contained in the application and shall either approve or deny the application as to each regulated tree proposed to be removed or relocated.

(E) *Tree removal standards.* The City may grant the tree removal permit if it finds one or more of the following conditions are met:

(1) *Immediate safety hazard.* The tree is an immediate safety hazard, either to persons who reasonably may be physically harmed by the tree or to domestic animals, buildings, or other construction, or motor, bicycle or pedestrian traffic;

(2)

Infestation of harmful insects or fungi. The tree is infected with an infestation of harmful insects or fungi that are not generally present on other trees of the species and may reasonably be expected to spread to other trees not so infected;

- (3) *No other reasonable or economic alternatives to use.* The tree, by its location, prevents reasonable use or development of the site, and that no other reasonable or economical alternatives to such use or development are possible; or
 - (4) *Progressive damage to building or structures.* The tree, by the normal growth of its branches or roots, is causing progressive damage to buildings, structures, or other more desirable trees and that no reasonable correction or prevention is available other than the tree's removal.
- (F) *Appeal of decision of LDR Administrator.* Any person aggrieved or affected by a decision of the LDR Administrator may appeal such decision to the BOA in accordance with Subsection 2.4.20 of this section, Appeal of interpretation or decision by LDR Administrator.

2.4.18 *Mobile home move-on permit.*

- (A) *Purpose.* This section provides a mechanism to ensure the review of mobile home placement and use on lands within the City.
- (B) *Applicability.* The requirements of this section shall apply to the placement, erection, and use of a mobile home in the City.
- (C) *Mobile home move-on permit requirement.* No mobile home shall be placed, erected, or used prior to the approval of a mobile home move-on permit by the LDR Administrator in accordance with this section. The mobile home move-on permit shall be posted in a prominent location on the mobile home prior to its movement onto a site.
- (D) *Procedure.*

- (1) *Submission and review of application.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
 - (2) *Action by LDR Administrator.* The LDR Administrator shall review the application in accordance with the procedures and requirements of Section 2.2.13, Review by LDR Administrator.
- (E) *Standards.* A mobile home move-on permit shall be approved upon a finding the application complies with all relevant standards of these LDRs.
- (F) *Replacement.* In the zone districts that do not permit the erection of new mobile homes, but do permit existing mobile homes to remain, such existing mobile homes may be removed and replaced by another mobile home provided that the replacement mobile home is erected or established for the same owner within six months from the date the existing mobile home is removed from the site. For the purposes of this section, the term "existing mobile home" means a mobile home that existed and was available for use on August 16, 1993.
- (G) *Effect.* Failure to obtain a mobile home move-on permit prior to the placement, erection, or use of a mobile home shall be a violation of these LDRs, subject to the penalties and remedies in Article 9, Enforcement and Remedies.
- (H) *Appeal of decision of LDR Administrator.* Any person aggrieved or affected by a decision of the LDR Administrator may appeal such decision to the BOA in accordance with Subsection 2.4.20 of this section, Appeal of interpretation or decision by LDR Administrator.

2.4.19 *Interpretation by LDR Administrator.*

- (A) *Authority.* Interpretations of all provisions of these LDRs shall be made by the LDR Administrator, including: interpretations of the text of these LDRs; interpretations of the zone district boundaries; and interpretations of whether an unspecified use falls within a use classification, use category or use type

allowed in a zone district.

(B) *Initiation.* A written interpretation may be requested by the City Commission, the PZB, the BOA, any resident or landowner, or any person having a contractual interest in land in the City.

(C) *Procedure.*

(1) *Submission of request for interpretation.* Before a written interpretation shall be provided by the LDR Administrator, a request for interpretation shall be submitted to the LDR Administrator in writing on a form established by the Administrator and made available to the public, along with a nonrefundable fee.

(2) *Determination of completeness.* Within five business days after a request for interpretation has been submitted, the LDR Administrator shall determine whether it is complete.

(a) If the LDR Administrator determines the request is not complete, a notice shall be provided to the applicant specifying the deficiencies. The LDR Administrator shall take no further action on the request for interpretation until the deficiencies are remedied.

(b) When the request for interpretation is determined complete, the LDR Administrator shall review the request and render an interpretation in accordance with the procedures and standards of this section.

(3) *Rendering of interpretation.* After the request for interpretation has been determined sufficient, the LDR Administrator shall review and evaluate the request in light of the Comprehensive Plan, these LDRs, the Official Zoning Atlas, and other relevant codes and statutes, consult with the City Attorney and other affected City staff, and then render an interpretation.

(4) *Form.* The interpretation shall be in writing, approved as to form by the City Attorney, and sent to the applicant by mail after the interpretation is made by the LDR Administrator.

(D) *Official record.* The LDR Administrator shall maintain a record of written interpretations that shall be available for public inspection, upon reasonable request, during normal business hours.

2.4.20 *Appeal of interpretation or decision by LDR Administrator.*

(A) *Right of appeal.* Any person aggrieved or affected by a decision or interpretation of the LDR Administrator (except those related to construction plans (Subsection 2.4.10(G)(4) of this section) may appeal such decision or interpretation to the BOA.

(B) *Appeal procedure.*

(1) *Initiation.*

- (a) An appeal taken in accordance with this section may be initiated by filing a written notice of appeal within 30 days of the date of the written interpretation or decision with the LDR Administrator.
- (b) The notice of appeal shall be filed, in writing, in the office of the LDR Administrator during normal business days between the hours of 8:00 a.m. and 4:30 p.m. If the notice of appeal is filed after 4:30 p.m., it shall be considered filed on the subsequent day.

- (2) *Contents of appeal.* The written notice of appeal shall specify the grounds for the appeal, a statement of the improper decision or interpretation, the date of that decision or interpretation, and all support materials related to the decision.
 - (3) *Record.* After filing of the notice of appeal, the LDR Administrator shall ensure public notification is accomplished, schedule the appeal for consideration by the BOA, and transmit all the papers, documents, and other materials relating to the decision or interpretation appealed to the BOA. These materials shall constitute the record of the appeal.
 - (4) *Scheduling of notice and hearing.* The BOA shall hear the appeal within a reasonable time after its filing, after public notification.
 - (5) *Hearing and decision by BOA.* At the hearing, the person making the appeal may appear in person or by agent or attorney, and shall state the grounds for the appeal and identify any materials or evidence from the record to support the appeal. The LDR Administrator shall be given an opportunity to respond, as well as any other City staff or other person the BOA deems necessary. After the conclusion of the hearing, the BOA shall affirm, partly affirm, modify, or reverse the decision or interpretation, based on the record, and the requirements and standards of these LDRs.
- (C) *Effect of appeal.* A pending appeal stays all proceedings in furtherance of the action appealed from, unless the LDR Administrator certifies to the BOA, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed.

2.4.21 *Appeal of decision of PZB.*

- (A) *Generally.* Any person aggrieved or affected by a decision of the PZB, or any agent of the City affected by a decision of the PZB, on an application for site plan may appeal such decision to the City Commission by filing a notice of appeal with the LDR Administrator within 30 days of the decision.
- (B) *Effect of PZB decision upon filing of appeal.* The effect of the PZB decision upon the filing of an appeal shall be that the decision of the PZB becomes an advisory recommendation to the City Commission and does not have the effect of a final decision. If the decision of the PZB is appealed, no further approvals for development shall be issued by the City until the completion of the appeal process.
- (C) *Contents of notice of appeal.* The written notice of appeal shall specify the grounds for the appeal, a statement of the improper decision, the date of that decision and all support materials related to the decision shall be submitted on forms provided by the City. Although not required, the notice of appeal may include the appellant's concerns with the decision of the PZB for informational purposes only.
- (D) *Record.* After filing of the notice of appeal, the LDR Administrator shall schedule the appeal for consideration by the City Commission, and transmit the notice of appeal and the PZB recommendation to the City Commission. This information shall constitute the record of the appeal. Information submitted to the City Commission, such as the application, verification of public notice, and staff's report is not considered as a transmittal of the record of the PZB public hearing.
- (E) *Scheduling of notice and hearing.* The City Commission shall hear the appeal within 45 days after receipt of a duly filed notice of appeal and all processes thereof.
- (F)

Hearing and decision by City Commission. The appeal hearing shall be conducted as a de novo quasi-judicial public hearing, in accordance with Section 2.3.1, Quasi-judicial public hearings. At the hearing, the participants shall be required to make a full and complete presentation. At the conclusion of the hearing, the City Commission shall approve, approve with conditions, or deny the site plan, based on the competent and substantial evidence and testimony given at the meeting and the relevant standards found in these LDRs.

2.4.22 *Vested rights certificate.*

- (A) *Purpose and intent.* Certain development rights of landowners may be vested with respect to requirements of the Comprehensive Plan. This section sets forth the procedure for determining vested rights and the subsequent issuance of a vested rights certificate. Possession of a vested rights certificate enables a permittee to complete the development approved under such certificate up to and through issuance of appropriate certificates of occupancy.
- (B) *Authority.* The City Commission may approve or deny requests for vested rights certificates in accordance with the standards of this section.

(C) *Procedure.*

- (1) *Application submission, review, public notification and scheduling hearing.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
- (2) *Review and action by City Commission.* After preparation of a staff report, public notification, and the scheduling of a public hearing, the City Commission shall conduct a public hearing on the application in accordance with Section 2.3.2, Standard public hearings. At the public hearing, the City Commission shall consider the application, the relevant support materials, the staff report, and the testimony given at the public hearing. After the close of the public hearing, the City Commission shall approve, or deny the application based on the standards in Subsection 2.4.22(E) of this section, Standards for vested rights.

(D) *Time limit for application.*

- (1) *Filed within one year.* An application for a vested rights certificate may be filed within one year of the adoption or amendment of these LDRs for the subject land. Except as provided in this Subsection 2.4.22(D), failure to file an application within the required period constitutes an abandonment of any claim to vested rights. Judicial relief is not available until administrative remedies set forth in the section are exhausted.
- (2) *Absent during filing period.* If a landowner is absent from the State of Florida during the entire filing period and does not have an agent present in the State during such period, such landowner may, with documentation sufficient to indicate a probable lack of notice, be granted leave by the City Commission to file an application within one year after the individual's return to the State of Florida.
- (3) *Undue hardship.* Notwithstanding the provisions of this Subsection 2.4.22(D), the City Commission may, in extraordinary circumstances, allow a landowner to submit an application after the one year deadline where such extension avoids undue hardship to the landowner.

(E) *Standards for vested rights.*

- (1) An application for vested rights determination shall be approved if the applicant demonstrates all of the following:
 - (a) The applicant:
 - (i) Owned the land proposed for development on the date of adoption or amendment of the Comprehensive Plan;
 - (ii) Entered into a contract or option to purchase the land on or before such date; or
 - (iii) Presents facts such that it would be inequitable, unjust or fundamentally unfair to deny an application for vested rights where the applicant acquired ownership after such date;
 - (b) There was a valid, unexpired act of an agency or authority of government upon which the applicant reasonably relied in good faith;
 - (c) The applicant, in reliance upon the valid unexpired act of government, made a change in position or incurred extensive obligations or expenses;
 - (d) It would be inequitable, unjust or fundamentally unfair to destroy the rights acquired by the applicant. In making this determination, the City may consider a number of factors including, but not limited to:
 - (i) Whether construction or other development activity has commenced and is continuing in good faith; and

- (ii) Whether or not the expense or obligation incurred can be substantially used for a development permitted by the Comprehensive Plan and these LDRs.
- (2) The following are not considered development expenditures or obligations in and of themselves without more evidence of actions in reliance unless the applicant was unable to obtain further approvals because of extraordinary delays beyond the applicants control:
- (a) Costs for legal and other professional services that are not related to the design or construction of improvements;
 - (b) Taxes; and
 - (c) Costs for acquisition of the land.
- (F) *Presumptive vesting.* Presumptive vesting for consistency and concurrency is applied to any structure on which construction has been completed pursuant to a valid building permit, and as such, there is no requirement to file an application to preserve vested rights status.
- (1) *Presumptive vesting for density only.* The following lands are presumptively vested for purpose of density only, and shall not be required to file an application to preserve vested rights in this regard:
- (a) Lots of record as of the adoption or amendment of the Comprehensive Plan, whether located within a subdivision or without, but only to the extent of one single-family residence per lot; however, such lots shall not be contiguous on the same frontage as of the adoption or amendment of the Comprehensive Plan to any other lots owned by or under contract for deed to the persons applying for the single-family residence building permit; and
 - (b) Contiguous lots of record as of the adoption of the Comprehensive Plan, whether located within a subdivision or without, where such lots are treated as one lot for one single-family residence.
- (G) *Developments of regional impact.*
- (1) *Generally.* Developments of regional impact authorized under F.S. § 380.06 pursuant to a valid, unexpired binding letter of vested rights issued by the State Land Planning Agency, including approved modifications to such binding letter of vested rights (the "binding letter"), shall automatically qualify for a vested rights certificate. Such permit shall recognize the vesting of the development as set forth in the binding letter for purposes of the Comprehensive Plan, from these LDRs. In lieu of Subsection 2.4.22(J) of this section, Limitation, on determination of vested rights, such vesting shall continue until development approved in the binding letter is complete or until the expiration or invalidation of the binding letter, whichever occurs first.
 - (2) *Change or deviation from vested development.* Notwithstanding Subsection 2.4.22(J) of this section, Limitation, on determination of vested rights, a proposed change to a development vested hereunder shall be reviewed pursuant to the substantial deviation or change criteria provided for in F.S. § 380.06, as amended. A substantial deviation after the date of adoption or amendment of the Comprehensive Plan shall cause those development rights that are the subject of such deviation to become subject to the Comprehensive Plan, these LDRs. The request for issuance of the vested rights certificate shall consist of the binding letter along with a master plan of development or similar document previously approved by the City Commission.
 - (3)

Development of regional impact without a binding letter. Development of regional impact development vested under F.S. § 380.06 and for which a binding letter has not been issued shall qualify for a vested rights certificate, provided that the City issued a building permit or other authorization to commence development, and that in reliance on such permit or other authorization, there has been a change of position as required under the provisions of F.S. § 380.06; provided, however, in lieu of the limitations set forth in Subsection 2.4.22(J) of this section, Limitation on determination of vested rights, such vesting shall continue until such development is complete or until the State Land Planning Agency determines that such development is not entitled to be vested under F.S. § 380.06, whichever occurs first.

(H) *Statutory vesting.* The right to develop or continue the development of property shall exist if:

- (1) A valid and unexpired final development order was issued by the City prior to adoption of this Comprehensive Plan;
- (2) Substantial development has occurred on a significant portion of the development authorized in the final development order or is completed; or
- (3) Development is continuing in good faith as of the adoption or amendment of the Comprehensive Plan.

For the purposes of this subsection, the term "final development order" means a development order which approved the development of land for a particular use or uses at a specified density of use and which allowed development activity to commence on the land for which the development order was issued. The term "substantial development" means all required permits necessary to commence and continue the development have been obtained; permitted clearing and grading has commenced on a significant portion of the development; and the actual construction of roads and the stormwater management system on that portion of the development is complete or is progressing in a manner that significantly moves the entire development toward completion.

(I) *Common law vesting.* A right to develop or continue the development of property notwithstanding this Comprehensive Plan may be found to exist if the applicant proves by a preponderance of evidence that the owner or developer, acting in good faith and reasonable reliance upon some act or omission of the City, has made a substantial change in position or has incurred such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the right to develop or to continue the development of the property.

(J) *Limitation on determination of vested rights.*

- (1) Development subject to a vested rights certificate shall be consistent with the terms of the development approvals upon which the certificate was based. Substantial deviation from a prior approval, except as required by governmental action, shall cause the development to be subject to policies and implementing decisions and regulations of the Comprehensive Plan. The City Commission shall determine if a proposed or actual deviation change is a substantial deviation based upon:
 - (a) A change in use or intensity of use that would increase the development's impacts on those public facilities subject to Concurrency by more than five percent.
 - (b) A change in access to the project that would increase the development's transportation impacts by more than five percent on any road subject to Concurrency unless the access change would result in an overall improvement to the transportation network.
- (2) A vested rights certificate applies to the land and is therefore transferable from owner to owner of the land subject to the permit.

- (3) Notwithstanding anything in this section to the contrary, a vested rights determination may be revoked upon a showing by the City of a peril to public health, safety or general welfare of the residents of the City unknown at the time of approval.

2.4.23 *Beneficial use determination.*

- (A) *Generally.* If, after the submission and decision on the appropriate applications for development permit, a landowner in the City is of the opinion that an economically beneficial use of the land has been denied by the application of these LDRs, the procedures of this section shall be used prior to seeking relief from the courts in order that any denial of economically beneficial use of land may be remedied through a nonjudicial forum.
- (B) *Purpose.* The purpose and intent of the City Commission is that every landowner in the City enjoy an economically beneficial use of land. It is also the purpose and intent of this section to provide for relief to the landowner, where appropriate, from the application of these LDRs. The procedures set forth in this section are intended to permit landowners who believe they have been deprived of economically beneficial use of their land to apply to the City Commission for relief sufficient to provide an economically beneficial use of the land.
- (C) *Procedure.*
- (1) *Application for a beneficial use determination.* An application beneficial use determination may be filed by a landowner at any time with the LDR Administrator, along with an application fee.
- (2) *Contents of application.* The application shall be submitted in a form established by the LDR Administrator and made available to the public, and shall include the following:

- (a) The landowner's name and address.
- (b) A legal description and the street address (when a street address is available) of the land.
- (c) Documentation of the date of purchase and the purchase price of the land, and any offers to purchase the land made by any person, corporation, or association, within the last three years.
- (d) A description of the physical features present on the land, the land's total acreage, the present use of the land, and the use of the land at the time of the adoption of these LDRs.
- (e) Evidence of any investments made by the landowner to improve the land, the date the improvements were made, and the costs of the improvements.
- (f) A description of what uses of land were available when the land was purchased by the landowner.
- (g) A description of the regulations and uses permitted which are alleged to result in an elimination of economically beneficial use of the land.
- (h) All appraisals, studies, and any other supporting evidence, and any actions taken by the City related to the land.
- (i) A description of the use which the landowner believes represents the minimum legally required economically beneficial use of the land and all documentation, studies, and other supporting evidence thereof.

- (3) *Determination of completeness.*
- (a) The LDR Administrator shall determine, within seven days, if the application is complete and includes data in sufficient detail to evaluate the application to determine if it complies with the appropriate substantive requirements of this section.
 - (b) If the LDR Administrator determines the application is not complete, a written notice shall be mailed to the applicant specifying the application's deficiencies. No further action shall be taken on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within 30 days, the application shall be considered withdrawn, and the application fee shall be refunded.
 - (c) When the application is determined complete, the LDR Administrator shall notify the applicant, in writing, of the application's sufficiency, and forward the application to a hearing officer for the scheduling of a hearing.
- (4) *Establishment of date for hearing by hearing officer and notice.* Within 30 days after the date the application has been determined sufficient by the LDR Administrator, the City Commission shall appoint a hearing officer to schedule and conduct a hearing on the application in accordance with the procedures and standards of this section.
- (5) *Hearing by hearing officer.* At the hearing, the applicant or the applicant's representative shall present the applicant's case and the City Attorney shall represent the City. All evidence presented shall be under oath, and the parties involved shall be permitted to cross examine witnesses. The sworn testimony and evidence shall pertain to the standards set forth in Subsection 2.4.23(D) of this section, as to whether the applicant has been deprived of an economically beneficial use of the land and the standards in Subsection 2.4.23(E) of this section, Granting of relief, pertaining to the degree of relief needed to provide the landowner with an economically beneficial use of the land.
- (6) *Findings of the hearing officer.* Within 45 days of the close of the hearing, the hearing officer shall prepare recommended findings of fact and a proposed order for the consideration of the City Commission. The findings and recommendations of the hearing officer as to whether the land is provided economically beneficial use shall be based on the evidence submitted and the standards in Subsection 2.4.23(D) of this section, Beneficial use standards. If the hearing officer finds that the applicant has been denied economically beneficial use of the subject land, then the hearing officer shall recommend a use that permits an economically beneficial use and results in a minimum change from the regulations of these LDRs as they apply to the subject land, in accordance with the standards set forth in Subsection 2.4.23(D) of this section, Beneficial use standards, and Subsection 2.4.23(E) of this section, Granting of relief, or other relief as is determined appropriate. The hearing officer's recommended findings of facts and proposed order shall be in writing and shall detail the basis of the conclusions from the record of the hearing.
- (7) *Action by City Commission.* The LDR Administrator shall schedule a hearing before the City Commission within 45 days of the date the hearing officer issues the recommended findings of fact and proposed order. At the hearing, the City Commission shall approve the findings of fact and proposed order of the hearing officer, or may attach conditions, modify, or reverse the findings of fact or proposed order of the hearing officer, based on the standards of Subsection 2.4.23(D) of this section, Beneficial use standards, and Subsection 2.4.23(E) of this section, Granting of relief. If the City Commission attaches

conditions, modifies or reverses the findings of fact or proposed order, it shall do so only where the record of the hearing indicates that the hearing officer is unsupported by the record, or that the proposed order is not in conformance with the standards of Subsection 2.4.23(D) of this section, Beneficial use standards, and Subsection 2.4.23(E) of this section, Granting of relief.

(D) *Beneficial use standards.* In determining if a landowner has been deprived of an economically beneficial use of land, the hearing officer and City Commission shall take into account the following factors:

- (1) *Economically viable use.* In making the determination of whether the land is provided an economically beneficial use, the hearing officer/City Commission shall first evaluate the uses of the land as provided by these LDRs, and the uses of land in relation to the uses provided similarly situated lands. For the purposes of this section, the term "economically beneficial use" means the opportunity to make a return equivalent to that which would have been received from a conservative financial investment. Transitory economic issues shall not be relevant to this determination.
- (2) *Diminution in value.* The market value of the land, as established by the comparable sales approach, prior to adoption of these LDRs, or any amendments thereto, which caused the landowner to apply for relief shall be compared to the market value of the land, as established by the comparable sales approach, with the regulations as applied. Market value of the land prior to the adoption of these LDRs, or any amendment thereto, shall constitute its highest and best use on (one day prior to the effective date of these amendments) or the date of purchase of the land, whichever is later, and any other land value/appraisal information that the applicant would like to be considered. All appraisals shall be proposed by qualified licensed appraisers, and shall follow the best professional practices as established by the profession. A mere diminution in market value is not sufficient to support a determination of denial of economically beneficial use.
- (3) *External costs.* The amount or nature of any subsidy that may be required by the City, neighbors, purchasers, tenants, or the public-at-large if the uses allowed under these LDRs are modified; or any other adverse effects on the City and its residents.
- (4) *Current state of the law.* The state of the law established by the United States Supreme Court, the Federal Circuit Courts of Appeals, and the Florida Supreme Court, and all other courts of competent jurisdiction, relevant to these standards.

(E) *Granting of relief.*

- (1) *Relief.* If the finding is that a landowner has been deprived economically beneficial use of land, or is otherwise entitled to relief in accordance with the standards of this section, relief shall be granted.
- (2) *Generally.* In granting relief, the hearing officer may recommend and the City Commission may adopt any legally available incentive or measure reasonably necessary to offset any substantial economic hardship, and may condition such incentives upon approval of specific development plans. If there is a finding that the denial of the application would create a substantial economic hardship, the hearing officer may recommend and the City Commission may consider additional relief to provide an appropriate increase in market value or other benefit or return to the applicant sufficient to offset the substantial economic hardship. The types of incentives that the hearing officer may recommend and the City Commission may consider include, but are not limited to, the following:

- (a) An amendment of the Official Zoning Atlas (rezone) to a more appropriate classification, issuance of a special exception permit, issuance of a variance permit, approval of a site plan, or other appropriate land use regulatory action that will enable the applicant to realize a reasonable return on the land;
 - (b) An opportunity to transfer density or cluster development on other land;
 - (c) A waiver of permit fees;
 - (d) Development finance assistance;
 - (e) Approval of development on some portion of the land; or
 - (f) Acquisition of all or a portion of the land at market value.
- (3) *Minimum increase.* In granting relief, the landowner shall be given the minimum increase in use density/intensity or other possible concessions from these LDRs in order to permit an economically beneficial use of the land or a use that is determined to be required by law. The highest use, or even an average or generally reasonable expectation, is not required or intended as the appropriate remedy. The following guidelines shall be used for determining the minimum economically beneficial use of land and, therefore, the amount of relief to be granted a landowner in order to reach that minimum:
- (a) A minimum economically beneficial use of the land should be one that does not have any governmental subsidy attached to the long-term safe occupation of the land. If such a subsidy is needed, then that should be reflected by lowering the use intensity that is considered a minimum economically viable use on a market valuation basis.
 - (b) A use common to the City, although it may not involve further development of the land, is considered an economically viable use. Attention shall also be given to land uses that are considered to be the lowest intensity in the City but which uses still provide for occupation and living within the City. These land uses, as well, shall be considered economically viable uses.
 - (c) The actual condition of the land shall be considered. The reality of limited development potential, given the natural condition of the land, shall not be attributed to the regulations applied to the land. If the land is such that it cannot safely accommodate development with normal grading and clearing practices, this fact shall lower the intensity of use that is considered a minimum economically beneficial use.
 - (d) The potential for damages to either residents or land shall be assessed in determining economically viable use. The need for a governmental subsidy to future landowners shall be considered, and the cost of such subsidies shall be deducted from the otherwise established minimum economically beneficial use.
 - (e) Expectations shall, in general, not be considered. Only reasonable expectations backed by investments as required by the current state of the law, shall be considered.
 - (f) The current state of law established by the United States Supreme Court, the Federal Circuit Court of Appeals and the Florida Supreme Court, relevant to the granting of relief.
- (4) *Appeal.* The decision of the City Commission may be appealed to a court of law in Alachua County, Florida.

Wellfield exemption permit.

- (A) *Purpose.* The purpose of this section is to provide a means to exempt the storage of certain materials or to allow storage of regulated materials on a short-term basis within wellfield protection zones as identified in the Comprehensive Plan.
- (B) *Applicability.* The requirements of this section shall apply to any request to exempt the storage of agricultural chemicals, or petroleum products, within a wellfield protection zone on a temporary or permanent basis.
- (C) *Procedure.*
 - (1) *Application review, notification, and scheduling hearing.* The procedures and requirements for submission and review of an application are established in Section 2.2, Common development review procedures.
 - (2) *Review and recommendation by PZB.* After preparation of a staff report, public notification, and the scheduling of the public hearing, the application shall be referred to the PZB by the LDR Administrator. The PZB shall conduct a public hearing on the application in accordance with Section 2.3.1, Quasi-judicial public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, the testimony and evidence given at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to approve, approve with conditions, or deny the application based on the standards in Subsection 2.4.24(D) of this section, Standards. The PZB shall forward the report to the City Commission.

- (3) *Review and action by City Commission.* After receipt of the report from the PZB, public notification, and the scheduling of the public hearing, the City Commission shall consider the application at a public hearing conducted in accordance with Section 2.3.1, Quasi-judicial public hearings. At the hearing, the City Commission shall review the application, the relevant support materials, the staff report, the report of the PZB, and the testimony and evidence given at

the hearing. After the close of the hearing, the City Commission shall either approve the application, approve the application with conditions, or deny the application, based on the standards of Subsection 2.4.24(D) of this section, Standards.

- (D) *Standards.* A wellfield exemption permit shall be approved upon a finding the application complies with the standards in Section 6.9.7(B)(8), Activities requiring storage prohibited, and all relevant standards of the Comprehensive Plan.
- (E) *Conditions of approval.* In approving a wellfield exemption permit, the City Commission may impose appropriate conditions on the permit approval in accordance with Section 2.2.14, Conditions of approval.
- (F) *Expiration.* A wellfield exemption permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit.
- (G) *Amendment.* A wellfield exemption permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

(Ord. No. 09-30, § 3(2.4.4, 2.4.9), 9-28-2009; Ord. No. 12-04, § 3, 12-12-2011; Ord. No. 13-01, § 3, 12-10-2012; Ord. No. 13-12, § 3, 8-12-2013; Ord. No. 18-01, § 3(Exh. A), 10-23-2017; Ord. No. 18-05, § 3(Exh. A), 2-12-2018; Ord. No. 18-08, § 3(Exh. A), 4-9-2018; Ord. No. 19-22, § 3(Exh. A), 3-25-2019; Ord. No. 19-31, § 3(Exh. A), 7-22-2019; Ord. No. 20-08, § 3(Exh. A), 7-27-2020; Ord. No. 21-07, § 3(Exh. A), 6-14-2021; Ord. No. 22-01, § 3(Exh. A), 10-11-2021)

State Law reference— Provisions to provide for protection of potable water wellfields required, F.S. § 163.3202(2)(c).

Sec. 2.5. - Development agreements.

2.5.1 *Findings.*

- (A) *Long-range planning of infrastructure implements Comprehensive Plan.* The comprehensive, long-range planning of the City's facilities and infrastructure serves to implement the City's Comprehensive Plan and ensure the presence of infrastructure necessary for coordinated growth.
- (B) *Ability to provide proposed developments greater certainty in application of land use policy and City laws attracts greater capital and more desirable projects.* The ability to provide proposed developments with greater certainty in the application of land use policy and the application of the City's laws and codes will attract greater capital to the City and more desirable projects for the City; will result in a more efficient use of economic and land resources; will encourage sound capital improvement planning and financing; will lower the cost of development; and will encourage commitment to Comprehensive Planning.
- (C) *Implementation of development agreement act supplements City's home rule authority.* Implementation of the provisions of the Florida Local Government Development Agreement Act, F.S. §§ 163.3220—163.3243 ("Act"), will provide a formal method that supplements the City's home rule authority and will provide additional means by which the foregoing goals can be attained with even greater certainty.
- (D) *City Commission is empowered to adopt procedures that govern development agreements.* The City Commission, as the applicable local government, is empowered by the Act to adopt procedures to govern the adoption of the development agreements.

2.5.2

Intent. It is the intent of this section to set forth the procedures and requirements necessary for the City Commission to consider and enter into development agreements, at their sole discretion, in accordance with the provisions of this section and applicable Florida law. It is the further intent of this section to encourage a strong commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development concurrent with the impacts of development, encourage the efficient use of resources, and reduce the economic cost of development.

2.5.3 *Procedure for review of development agreement.*

- (A) *Submission of application.* An application for a development agreement and a proposed development agreement shall be submitted to the LDR Administrator only by a qualified applicant, in conjunction with or separate from any other application for development permit, on a form provided by the LDR Administrator and made available to the public. The application shall be accompanied by the applicable materials specified in the Administrative Manual and an application fee (Section 2.2.2(C)).

- (B) *Review and recommendations of City departments.* Within 20 working days of the date the LDR Administrator determines the application is complete, a staff report shall be prepared in accordance with Section 2.2.7, Preparation of staff report.

(C) *Review and recommendation by PZB.* After preparation of a staff report, public notification, and the scheduling of the public hearing, the application for a development agreement shall be referred to the PZB (sitting as the LPA) by the LDR Administrator. The PZB shall conduct a public hearing on the application in accordance with Section 2.3.2, Standard public hearings. At the public hearing, the PZB shall consider the application, the relevant support materials, the staff report, the testimony and evidence given at the public hearing, and following the close of the public hearing, make a report to the City Commission recommending either to enter into or not to enter into the proposed development agreement based on the standards in this section.

(D) *Review and action by City Commission.*

- (1) *Two public hearings.* After receipt of the report from the PZB, the application and proposed development agreement shall be considered at two public hearings by the City Commission. The day, time, and place of the second public hearing shall be announced at the first public hearing. The hearings shall be noticed consistent with the requirements of F.S. § 163.3225.
- (2) *Action.* At the conclusion of the second public hearing, and based upon consideration of the application and the proposed development agreement, the staff report, the report of the PZB, and public testimony and evidence received during the public hearing, the City Commission, in their sole discretion, shall decide to either enter into or not enter into the development agreement, based upon the standards in this section.

2.5.4 *Contents of development agreement.* A development agreement shall, at minimum, include the following provisions:

- (A) *Legal description and owner.* A legal description of the land subject to the development agreement and the names of the legal and equitable owners.
- (B) *Duration.* The duration of the development agreement, which shall not exceed ten years, or such time as the Act may provide.
- (C) *Uses, densities, intensities and height.* The development uses permitted on the land ,including population densities, building intensities and height.
- (D) *Future land use map designation.* The land use designation of the land subject to the development agreement under the future land use element of the Alachua Comprehensive Plan and FLUM.
- (E) *Zoning.* The current zoning of the land subject to the development agreement.
- (F) *Conceptual site plan.* A conceptual site plan indicating phases, if the development is subject to phasing.
- (G) *Public facility adequacy.* A description of public facilities that will service the development, including who shall provide such facilities, the date any new public facilities, if needed, will be constructed, and a schedule to ensure public facilities are available concurrent with the impact of the development. Any public facilities to be designed and/or constructed by the developer shall be in compliance with all applicable Federal, State and City standards to ensure the quality of the public facilities. The standards shall include, but not be limited to, guarantees of performance and quality, and project controls (including scheduling, quality controls, and quality assurances).
- (H) *Reservation or dedication of land.* A description of any reservations or dedications of land for public purposes.
- (I) *Local development permits.* A description of all local development permits approved or needed to be approved for the development of the land, including but not limited to, the following:
 - (1)

Any required Comprehensive Plan amendments.

- (2) Any required amendments to the Official Zoning Atlas (rezoning) (Section 2.4.2).
 - (3) Any required submission to the North Central Florida Regional Planning Council (NCFRPC).
 - (4) Any required permits from the FDEP, the U.S. ACOE, the SRWMD, the U.S. EPA and other governmental permissions that are required.
 - (5) Any subdivision approvals (Section 2.4.10).
 - (6) Site plan approval (Section 2.4.9) and agreement that in the event that a site plan is required by these LDRs, all the requirements of the site plan process shall be met prior to development.
- (J) *Consistent with Comprehensive Plan and LDRs.* Demonstration the development permitted or proposed is consistent with the Comprehensive Plan and these LDRs.
- (K) *Local development permits obtained by applicant/property owner.* A statement that all local development permits identified in subsection 2.5.4(I) of this section, Local development permits, shall be obtained at the sole cost of the applicant/landowner and, that in the event that any such local development permits are not received, no further development of the land shall be allowed until such time as the City Commission has reviewed the matter and determined whether or not to terminate the development agreement, or to modify it in a manner consistent with the public interest and the Comprehensive Plan.
- (L) *Compliance with laws not identified in development agreement.* A statement indicating that failure of the development agreement to address a particular permit, condition, term, or restriction shall not relieve the applicant/landowner of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions, and that any matter or thing required to be done under existing ordinances of the City shall not be otherwise amended, modified or waived unless such modification, amendment or waiver is expressly provided for in the development agreement with specific reference to the LDRs so waived, modified or amended.
- (M) *Compliance with subsequently adopted laws and policies.* A statement recognizing and anticipating the conditions and changes in laws which the parties contemplate development in the development agreement will be subject.
- (N) *Conditions necessary to protect health, safety and welfare.* Such conditions, terms, restrictions, or other requirements determined to be necessary by the City for the public health, safety, or welfare of its citizens.

2.5.5 *Standards for review.* Development agreements shall be approved only if all required provisions are included and if the City Commission makes the following findings:

- (A) *Consistency with Comprehensive Plan.* The development permitted or proposed in the development agreement is consistent with the City's Comprehensive Plan. No development agreement shall be effective or implemented by the City Commission unless any Comprehensive Plan amendments required are found in compliance by the State planning laws.
- (B) *Consistency with these LDRs.* The development permitted or proposed in the development agreement is consistent with these LDRs.
- (C)

Furthers public health, safety and welfare. The development permitted or proposed in the development agreement furthers the public health, safety and welfare of the City.

2.5.6 *Duration of development agreement.* The duration of a development agreement shall not exceed ten years or such time as the Act may provide. A development agreement may be extended by mutual consent of the City Commission and the developer, subject to public hearings in accordance with Subsection 2.5.3 of this section, Procedure for review of development agreement. The term of any one extension shall not exceed five years or such time as the Act may provide.

2.5.7 *Execution of development agreement.* A development agreement shall be executed by all persons having legal or equitable title in the land subject to the development agreement, including the fee simple owner and any mortgagees, unless the City Attorney approves the execution of the development agreement without the necessity of such joinder or subordination based on a determination that the substantial interests of the City will not be adversely affected thereby. A development agreement is determined to be a legislative act of the City in the furtherance of its powers to plan, zone and regulate development within its boundaries and, as such, shall be superior to the rights of existing mortgagees, lien holders or other persons with a legal or equitable interest in the subject property and the development agreement, and the obligations and responsibilities arising thereunder on the landowner shall be superior to the rights of said mortgagees or lien holders and shall not be subject to foreclosure under the terms of mortgages or liens entered into or recorded prior to the execution and recordation of the development agreement.

2.5.8 *Recordation and effectiveness.*

(A) *Generally.* The City shall record the development agreement within 14 days of entering into the development agreement, with the Clerk of Circuit Court of Alachua County. If the development agreement is amended, canceled, modified, extended, or revoked, the LDR Administrator shall record the agreement with the Clerk of the Alachua County Circuit Court and in the public records of the City. A copy of all development agreements shall be kept by the LDR Administrator in a separate book located in the offices of the LDR Administrator.

(B) *Effective date.* A development agreement shall not be effective until it is properly recorded in the public records of Alachua County.

2.5.9 *Amendment and cancellation of agreement by mutual consent.* A development agreement may be amended or canceled by mutual consent of the parties to the Agreement or by their successors in interest. Prior to amending a development agreement, the City Commission shall hold public hearings on the proposed amendment, in accordance with the requirements of Subsection 2.5.3 of this section, Procedure for review of development agreement.

2.5.10 *City of Alachua laws and policies governing development agreements.* The City's laws and policies governing the development of land at the time of execution of the development agreement shall govern the development of land subject to a development agreement for the duration of the development agreement, except the City may apply subsequently adopted laws and policies to land and/or development subject to a development agreement only if the City Commission has held a public hearing that complies with F.S. § 163.3225 and for which 30 days' written notice is provided to all parties to the development agreement (except in case of emergency), and the following determinations are made:

(A) *Not in conflict with laws and policies governing development agreements.* They are not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities, or densities in the development agreement;

(B)

Essential to public health, safety or welfare, and state they apply. They are essential to the public health, safety, or welfare, and expressly state they shall apply to a development that is subject to a development agreement;

- (C) *Anticipated and provided for.* They are specifically anticipated and provided for in the development agreement;
- (D) *Substantial changes.* Substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement; or
- (E) *Based on inaccurate information.* The development agreement is based on substantially inaccurate information supplied by the developer.

2.5.11 *Periodic review.* The City shall review the land and/or development subject to the development agreement at least once every 12 months to determine if there has been a demonstration of good faith compliance with the terms of the development agreement. For each annual review conducted during the years six through ten of a development agreement, the review shall be incorporated into a written report, which shall be submitted to the parties to the development agreement. If the City Commission finds, on the basis of substantial competence evidence, there has been a failure to comply with the terms of the development agreement, the City Commission may revoke or modify the development agreement.

2.5.12 *Effect of contrary State or Federal laws.* In the event that State or Federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties' compliance with the terms of the development agreement, the agreement shall be modified or revoked as is necessary to comply with the relevant State or Federal laws. The modification or revocation shall take place only after the City Commission considers the matter in accordance with the procedures in Subsection 2.5.3 of this section, Procedure for review of development agreement.

2.5.13 *Enforcement.* Any party, any aggrieved or adversely affected person may file an action for injunctive relief in the Circuit Court for Alachua County to enforce the terms of a development agreement or to challenge compliance of the development agreement with the provisions of this section and the Florida Local Government Development Agreement Act (F.S. § 163.3220 et seq.)

Article 3 - ZONE DISTRICTS

Footnotes:

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State Law reference— Provisions to regulate land use required, F.S. § 163.3202(2)(b).

Sec. 3.1. - General provisions.

3.1.1 *Establishment of base zone districts.* The following base zone districts are established:

Table 3.1-1. Establishment of Base Zone Districts

Abbreviation	District Name	Max. Gross Density (DU/AC) [1]
Conservation Districts		
CSV	Conservation	N/A
Agricultural Districts		
A	Agricultural	0.20; 0.50 if homesteaded
Residential Districts		
RSF-1	Residential Single-Family — 1	1
RSF-3	Residential Single-Family — 3	3
RSF-4	Residential Single-Family — 4	4
RSF-6	Residential Single-Family — 6	6
RMH-5	Residential Mobile Home — 5	5; 2 without public utilities
RMH-P	Residential Mobile Home Park	8
RMF-8	Residential Multiple Family — 8	8
RMF-15	Residential Multiple Family — 15	15

Business Districts		
OR	Office Residential	5
CN	Neighborhood Commercial	None
CC	Community Commercial	None
CBD	Central Business District	None
CI	Commercial Intensive	None
CP	Corporate Park	.04 [2]
ILW	Light and Warehouse Industrial	None
IG	Industrial General	N/A
GF	Governmental Facilities	None
Planned Development Districts		
PD-R	Planned Development — Residential	See Section 3.6.3(A)
PD-TND	Planned Development — Traditional Neighborhood	See Section 3.6.3(B)
PD-EC	Planned Development — Employment Center	See Section 3.6.3(C)
PD-COMM	Planned Development — Commercial	See Section 3.6.3(D)

Notes

[1] Maximum gross residential density may be increased by 20 percent for the provision of affordable housing in the RSF-6, RMF-8, and RMF-15 zone districts.

Floor area ratios for business districts are as follows:

0.5 FAR for parcels five acres or greater;

0.75 FAR for parcels less than five acres but greater than one acre;

1.0 FAR for parcels one acre or less.

[2] Residential density shall be consistent with the criteria outlined in Sec. 3.5.2(F).

3.1.2 *Relationship to overlay districts.* Lands within the City may be classified into one of the base zone districts established in Subsection 3.1.1 of this section, Establishment of base zone districts, and also one or more of the overlay districts set forth in [Section 3.7](#), Overlay districts. Where land is classified into an overlay district as well as a base zone district, the standards governing development in the overlay district shall apply in addition to the standards governing development in the underlying base zone district. In the event of an express conflict between the standards governing a base zone district and those governing an overlay district, the standards governing the overlay district shall control.

3.1.3 *Compliance with district standards.* No land within the City shall be developed except in accordance with the zone district regulations of this [Article 3](#), Zone Districts, the use regulations of [Article 4](#), Use Regulations, the standards of [Article 5](#), Density, Intensity, and Dimensional Standards, and all other applicable regulations of these LDRs.

(Ord. No. 09-29, § 3(3.1.1), 9-28-2009; Ord. No. [13-06](#), § 3, 5-6-2013; Ord. No. 19-31, § 3(Exh. A), 7-22-2019)

Sec. 3.2. - Conservation district.

3.2.1 *General purpose.* The CSV district is established and intended to:

(A) *Conserve natural features and functions.* Conserve the unique natural features and functions of sensitive environmental lands located within the district;

(B) *Maintain hydrological systems and water quality.* Maintain the natural functioning and water quality of the hydrological systems in the district;

(C) *Conserve feeding and breeding areas of wildlife habitat.* Conserve the feeding and breeding areas of wildlife habitat located in the district;

(D) *Allow low-intensity, resource-based, public recreation uses.* Allow low-intensity, natural resource-based, public recreational uses that can be designed and located in places that are consistent with the purpose of conserving unique natural features and the functions of sensitive environmental lands; and

(E)

Limit urban development. Limit urban development and require it to be designed and located in places that are consistent with the purpose of conserving unique natural features and the functions of sensitive environmental lands.

3.2.2 *Specific purposes.* The CSV district is intended to provide lands for resource-based recreation activities, research activities, limited urban development, and related uses that are nonintensive, and can be designed and located to conserve the unique natural features and the functions of sensitive environmental lands located in the district.

3.2.3 *Use regulations and development standards.* The following Table 3.2-1, Use Regulations and Development Standards in the CSV District, indicates the location of standards in these LDRs related to allowable uses, density limitations, dimensional standards and development standards for the CSV district:

Table 3.2-1. Use Regulations and Development Standards

in the CSV District

Type of Standard	Location in these LDRs
Allowable uses	Table 4.1-1
Density/intensity/dimensional standards	Table 5.1-1
Development standards	Article 6

Sec. 3.3. - Agricultural district.

3.3.1 *General purposes.* The A district is established and intended to:

- (A) *Support agriculture and agriculture supportive uses.* Support the primary use of land for agriculture and agriculture support uses to help maintain the agricultural and rural character of the district;
- (B) *Ensure residential development consistent with rural and agricultural character.* Ensure that residential development is consistent with the rural and agricultural character of the district, by requiring either low-density residential development or encouraging residential cluster development, and subdivisions that are harmonious with the rural economy and agricultural uses; and
- (C) *Consistent with Comprehensive Plan.* Be consistent with the areas designated as agriculture on the Comprehensive Plan.

3.3.2 *Specific purposes.* The A district is intended to provide for areas primarily consisting of agriculture uses and agriculture support uses and also allow low-density single-family residential development. The maximum residential density allowed in the district is one dwelling unit per five acres, except that homesteaded lots may be developed at one unit per two acres. Residential cluster development is encouraged through the use of the Conservation Subdivision option. (See [Section 7.9](#), Conservation subdivision.)

3.3.3 *Use regulations and development standards.* The following Table 3.3-1, Use Regulations and Development Standards in the A District, indicates the location of standards in these LDRs related to allowable uses, density limitations, dimensional standards, development standards, and subdivision standards for the A district:

Table 3.3-1. Use Regulations and Development Standards

in the A District

Type of Standard	Location in these LDRs
Allowable uses	Table 4.1-1
Density/intensity/dimensional standards	Table 5.1-1
Development standards	Article 6
Subdivision standards	Article 7

Sec. 3.4. - Residential districts.

3.4.1 *General purposes.* The residential zone districts contained in this section are established and intended to provide a comfortable, healthy, safe, and pleasant environment in which to live. More specifically, they are intended to:

- (A) *Provide appropriately located lands for residential development.* Provide appropriately located lands for residential development that are consistent with the goals, objectives, and policies of the Comprehensive Plan;
- (B) *Protect from harmful effects.* Protect residents from the harmful effects of noise, traffic congestion, and other significant adverse environmental effects; and
- (C)

Provide lands with varying degrees of density. Provide for residential lands with varying density, together with public and semipublic buildings and facilities, accessory structures, and nonresidential services, as may be compatible with such development.

3.4.2 List of residential districts and specific purposes.

- (A) *RSF-1, Residential Single-Family-1.* The RSF-1 district is established as a district in which the principal use of land is single-family residential development at a moderate density. The regulations of this district are intended to discourage any use that would substantially interfere with the development of single-family dwellings and that would be detrimental to the quiet residential nature of the district. Complementary uses customarily found in residential zone districts, such as community facilities, religious institutions, parks and playgrounds are also allowed. The minimum lot area is 40,000 square feet and the maximum density allowed is one dwelling unit an acre.
- (B) *RSF-3, Residential Single-Family-3.* The RSF-3 district is established as a district in which the principal use of land is single-family residential development at a moderate density in areas served by water and sewer systems. The regulations of this district are intended to discourage any use that would substantially interfere with the development of single-family dwellings and that would be detrimental to the quiet residential nature of the district. Complementary uses customarily found in residential zone districts, such as community facilities, religious institutions, parks and playgrounds, and schools, are also allowed. The minimum lot area is 10,000 square feet and the maximum density allowed is three dwelling units an acre.
- (C) *RSF-4, Residential Single-Family-4.* The RSF-4 district is established as a district in which the principal use of land is single-family residential development at a moderate density for use in areas served by water and sewer systems. The regulations of this district are intended to discourage any use that would substantially interfere with the development of single-family dwellings and that would be detrimental to the residential nature of the district. Complementary uses customarily found in residential zone districts, such as community facilities, religious institutions, parks and playgrounds, and schools are also allowed. The minimum lot area for single-family detached is 7,500 square feet and the maximum density allowed is four dwelling units an acre.
- (D) *RSF-6, Residential Single-Family-6.* The RSF-6 district is established as a district in which the principal use of land is single-family residential development at a medium density in areas served by water and sewer systems. The district also allows single-family attached and two- to four-family dwellings as permitted uses. The regulations of this district are intended to discourage any use that would substantially interfere with the development of single-family dwellings and that would be detrimental to the quiet residential nature of the district. Complementary uses customarily found in residential zone districts, such as community facilities, religious institutions, parks and playgrounds, and schools, are also allowed. The minimum lot area is 6,000 square feet and the maximum residential density allowed is six dwelling units an acre.
- (E) *RMH-5, Residential Mobile Home-5.* The RMH-5 district is established and intended to allow mobile homes and group living. Complementary uses customarily found in residential zone districts, such as community facilities, religious institutions, parks and playgrounds, and schools, are also allowed. The maximum residential density allowed is five units an acre with public utilities, and two units an acre without public utilities.
- (F) *RMH-P, Residential Mobile Home Park.* The RMH-P district is established and intended to provide for mobile homes in a mobile home park setting designed to create an environment of residential character. The minimum size for a mobile home park development in the RMH-P district is ten acres. Complementary uses customarily found in residential zone districts, such as community facilities, religious institutions, parks and playgrounds, and schools, are also allowed. The

maximum residential density allowed is eight dwelling units an acre with public utilities, and two units an acre without public utilities.

(G) *RMF-8, Residential Multiple Family District-8.* The RMF-8 district is established and intended to encourage a mixture of medium-density housing types, including single-family detached, townhouses, two- to four-family, and multiple-family dwellings, in areas served by water and sewer systems. Complementary uses customarily found in residential zone districts, such as community facilities, religious institutions, parks and playgrounds, and schools, are also allowed. The maximum density allowed is eight dwelling units an acre.

(H) *RMF-15, Residential Multiple Family District-15.* The RMF-15 district is established and intended to encourage a wide range of high-density housing types, especially multifamily development, but also single-family attached, townhouses, and two- to four-family dwellings, to meet the diverse needs of the Alachua housing market, in areas served by water and sewer systems. Complementary uses customarily found in residential zone districts, such as community facilities, religious institutions, parks and playgrounds, and schools, are also allowed. Limited, neighborhood-serving commercial uses are also allowed. The maximum residential density allowed is 15 dwelling units an acre.

3.4.3 *Use regulations and development standards.* The following Table 3.4-1, Use Regulations and Development Standards in the Residential Districts, indicates the location of standards in these LDRs related to allowable uses, density limitations, dimensional standards, development standards, and subdivision standards for the residential zone districts:

Table 3.4-1. Use Regulations and Development Standards

in the Residential Districts

Type of Standard	Location in these LDRs
Allowable uses	Table 4.1-1
Density/intensity/dimensional standards	Table 5.1-2
Development standards	Article 6
Subdivision standards	Article 7

Sec. 3.5. - Business districts.

3.5.1 *General purposes.* The business zone districts are established for the general purpose of ensuring there are lands in the City that provide a wide range of office, retail, service, light industrial and related uses to meet household and business needs, and more specifically:

- (A) *Provide appropriately located lands for business uses consistent with Comprehensive Plan.* Provide appropriately located lands in areas served by water and sewer for the full range of business uses needed by Alachua's residents, businesses, and workers, consistent with the goals, objectives, and policies of the Comprehensive Plan;
- (B) *Strengthen economic base.* Strengthen the City's economic base, and provide employment opportunities close to home for residents of the City and surrounding communities;
- (C) *Provide suitable environment for business uses.* Create suitable environments for various types of business uses, and protect them from the adverse effects of incompatible uses; and
- (D) *Minimize impact of business development on residential districts and uses.* Minimize the impact of business development on residential districts and uses.

3.5.2 *Business district specific purposes.*

- (A) *OR, Office Residential District.* The OR district is established and intended to provide for a mix of business and professional office uses together with single-family detached, single-family attached, townhouse, and two- to four-family dwellings, on lands that in the past were primarily residential in character. The professional office uses shall be located in buildings that are residential in physical design and character. The maximum residential density allowed is five dwelling units an acre.
- (B) *CN, Neighborhood Commercial District.* The CN district is established and intended to provide for small-scale retail and service establishments and professional offices which provide goods and services to serve the residents of the surrounding neighborhood. Residential uses are encouraged on the upper floors of nonresidential establishments. The district should not include establishments that attract traffic from areas of the City outside the neighborhood which is being served by the use. Nonresidential buildings in the CN district should not exceed 10,000 square feet in area. The district should typically be located at the intersection of two collector streets or a collector street and arterial street in close proximity to the residential neighborhood which it serves.
- (C) *CC, Community Commercial District.* The CC district is established and intended to provide lands for business uses that provide goods and services to residents of the entire community. Because these commercial uses are subject to public view, they should provide appropriate appearance, adequate parking, controlled traffic movement, suitable landscaping, appropriate pedestrian facilities, and protect abutting residential areas from adverse impacts. The CC district should typically be located along major arterials or at the intersection of an arterial and highway.
- (D) *CBD, Central Business District.* The CBD district is established and intended to encourage the development of the City's historic downtown as the focal point in Alachua for an intense mix of office, retail, service, restaurant, entertainment, cultural, government, civic, and residential uses. More specifically, the district is intended to:

- (1) *Protect and enhance architectural character.* Protect and enhance the unique aesthetic and architectural character of Alachua's downtown;
 - (2) *Support economic vitality.* Support the economic vitality of the downtown;
 - (3) *Allow for diverse mix of uses.* Allow for a diverse mix of business, office, institutional, recreational, and residential uses;
 - (4) *Encourage pedestrian friendliness.* Encourage pedestrian-friendly development; and
 - (5) *Discourage highway-oriented uses.* Discourage highway-oriented uses.
- (E) *CI, Commercial Intensive District.* The CI District is established and intended to provide lands and facilitate highway-oriented development opportunities within the City, for uses that require high public visibility and an accessible location. The CI district should be located along major arterials or highways and at the US 441/Interstate-75 interchange.
- (F) *CP, Corporate Park District.*
- (1) The CP District is established and intended to accommodate a range of research and development, technology and life sciences/biotechnology industries, office, and supporting retail. Complementary residential uses may also be permitted within the CP District as set forth in Subsection 3.5.2(F)(2). By allowing a range of permitted uses, the CP District is intended to accommodate the development of "flex space" arrangements. Flex space allows a developer to establish different combinations of uses on a site over time.
 - (2) *Residential development criteria.* Development within the CP District that consists of greater than 50 acres of contiguous land may provide complementary residential development. Residential development within the CP District shall comply with the performance standards set forth in subsections (a)—(e) below and with the dimensional standards and maximum gross residential density as set forth in Table 5.1-3.
 - (a) In order to ensure that the purpose and intent of the CP District is achieved, development within the Corporate Park zoning district that includes residential uses as permitted by this subsection shall include a functional mix of residential and non-residential uses. The number of residential units within the CP District shall be limited. A final development order for residential units shall not be granted unless the minimum floor area of non-residential uses as set forth in Table 3.5-1, Residential to Non-Residential Ratios within the CP District, has been constructed within the CP District, or shall be constructed concurrent with residential units as a part of a mixed-use development.

Table 3.5-1. Residential to Non-Residential Ratios
within the CP District

Number of Residential Units	Minimum Floor Area of Non-Residential Uses
1—199	0 square feet

200—299	37,500 square feet
300—399	75,000 square feet
400—499	150,000 square feet
500—599	250,000 square feet
600—699	375,000 square feet
700—999	500,000 square feet
1,000 or more	700,000 square feet

- (b) For purposes of calculating gross residential density, the maximum number of dwelling units permitted in a contiguous area shall be determined by the total acreage contained in the property in common ownership as of the effective date of the ordinance adopting the rezoning to Corporate Park.
- (c) Any site plan or preliminary plat which includes residential development in the CP District shall provide an exhibit depicting the area to be preserved for non-residential uses within the CP District. In addition to the standards as set forth in Subsection 3.5.2(F)(2)(a), the exhibit shall demonstrate the ability to meet the following minimum standards. The exhibit shall:
 - (i) Depict the boundary of the property in common ownership as of the effective date of the ordinance adopting the rezoning to Corporate Park, together with all existing improvements; and
 - (ii) Demonstrate that land shall remain within the CP District to construct a minimum of 750 square feet per dwelling unit of non-residential uses. The land area to be preserved for non-residential uses shall be depicted on the exhibit. An intensity of not more than 15,000 square feet of non-residential uses per acre shall be used for the preservation calculation.
- (d) Site plan and preliminary plats which include residential development in the CP District shall provide:
 - (i) A calculation of the maximum gross residential density which is permitted within the CP District;
 - (ii) A matrix identifying all final development orders granted within the CP District, including the number of approved residential units permitted by each final development order; and
 - (iii) A calculation of the minimum land required to be preserved for non-residential uses within the CP District as set forth in Subsection 3.5.2(F)(2)(c)(ii).

- (e) In no instance shall more than 33% of the maximum gross residential density permitted within the CP District be comprised of single-family detached dwellings on lots 45 feet in width or larger, and in no instance shall more than 50% of the maximum gross residential density permitted within the CP District be comprised of single-family detached dwellings.
- (G) *ILW, Light and Warehouse Industrial District.* The ILW district is established and intended to accommodate a wide range of employment-generating office, institutional, research and development, and light manufacturing uses. Such uses shall be developed in a manner compatible with surrounding land uses, and to minimize potential nuisances or damage to the environment. In addition, by allowing a wide range of permitted uses, the ILW district is intended to accommodate the development of "flex space" arrangements, where the developer can establish different combinations of uses on a site over time, as the market dictates, as long as all uses and development conform to the standards established by these LDRs to protect adjacent land uses and the natural environment. Residential uses are limited to caretaker dwellings, live/work units, and upper-story dwellings.
- (H) *IG, General Industrial District.* The IG district is established and intended to provide lands for industrial uses which can be operated in a relatively clean and quiet manner and which will not be obnoxious to adjacent residential or business districts. Allowable uses include limited manufacturing and functionally related uses such as distribution, storage, and processing. General commercial uses are allowed, but are considered incidental to the predominantly industrial nature of the district. Residential uses, other than caretaker dwellings, are not permitted. Any uses that generate hazardous wastes shall have a hazardous materials management plan and operate in accordance with all local, State, and Federal requirements.
- (I) *GF: Governmental Facilities District.*
- (1) The GF District is established and intended to include public lands for the purpose of accommodating governmental facilities. Governmental facilities include, but are not limited to, recreational, community and governmental uses and activities (such as governmental offices and facilities, emergency services, baseball fields, softball fields, soccer fields, tennis courts, and similar uses), utilities (such as potable water and sanitary sewer treatment facilities, electric facilities, communications, gas, stormwater management facilities, and other similar public utilities), public storage yards, airports, parking lots, libraries, hospitals, cultural facilities, religious institutions, educational facilities (such as public and private schools meeting the educational requirements of the State of Florida, public or private colleges and/or universities authorized or licensed by the State, but not including technical, business, or trade schools), and uses including privately owned entities which provide a public service (such as but not limited to, nonprofit agencies).
- 3.5.3 *Use regulations and development standards.* The following Table 3.5-2, Use Regulations and Development Standards in the Business Districts, indicates the location of standards in these LDRs related to allowable uses, density and intensity limitations, dimensional standards, development standards, and subdivision standards for the business zone districts:

Table 3.5-2. Use Regulations and Development Standards

in the Business Districts

Type of Standard	Location in these LDRs
Allowable uses	Table 4.1-1
Density/intensity/dimensional standards	Table 5.1-3
Development standards	Article 6
Subdivision standards	Article 7

(Ord. No. 12-06, § 3, 1-23-2012; Ord. No. [13-06](#), § 3, 5-6-2013; Ord. No. 19-31, § 3(Exh. A), 7-22-2019; Ord. No. 22-01, § 3(Exh. A), 10-11-2021)

Sec. 3.6. - Planned development (PD) districts.

3.6.1 *General provisions.*

- (A) *General purpose.* The planned development (PD) districts are established for the purpose of encouraging innovative land planning and site design concepts that conform to community quality of life benchmarks and that achieve a high quality of development, environmental sensitivity, energy efficiency, and other City goals by:
 - (1) *Increasing flexibility.* Reducing or diminishing the uniform design that results from the strict application of zoning and development standards that are designed primarily for individual lots;
 - (2) *Greater freedom to provide access, open space and amenities.* Allowing greater freedom in selecting the means to provide access, open space, and design amenities;
 - (3) *Greater freedom to provide mix of uses and housing types.* Allowing greater freedom in providing a mix of land uses in the same development, including a mix of housing types, lot sizes, and densities;
 - (4) *Providing greater opportunity for more efficient land use patterns.* Providing for an efficient use of land resulting in smaller networks of utilities and streets and thereby lowering development and housing costs;
 - (5) *Promoting quality design and environmentally sensitive development through site characteristics.* Promoting quality design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations, and land uses; and
 - (6)

Quality design through density increases. In specific instances, encouraging quality design and environmentally sensitive development by allowing increases in base densities or floor area ratios when such increases can be justified by superior design or the provision of additional amenities such as public open space.

(B) *Types of PD districts.* There are four types of PD options. They are subject to the development review procedures of Section 2.4.3, Planned development, the general standards of Subsection 3.6.2 of this section, General standards for all PD districts, and the specific standards for the individual PD options in Subsection 3.6.3 of this section, Additional standards for PD districts. The four PD options are described more specifically as follows:

- (1) *Planned Development-Residential District (PD-R).* The purpose of the Planned Development-Residential (PD-R) District is to provide a mix of residential uses using innovative and creative design elements, while at the same time providing an efficient use of open space. Commercial uses may be allowed in the PD-R district primarily to serve the needs of the residents in the development.
 - (2) *Planned Development-Traditional Neighborhood Development District (PD-TND).* The purpose of the Planned Development-Traditional Neighborhood (PD-TND) District is to provide landowner/developers with a flexible framework within which to develop a mixed-use traditional neighborhood development as an alternative to conventional development under the planned development (PD) regulations. The PD-TND standards are designed to encourage the development of compact mixed-use, small-lot, pedestrian-oriented communities.
 - (3) *Planned Development-Employment Center District (PD-EC).* The purpose and intent of the Planned Development-Employment Center (PD-EC) District is to encourage the development of a mix of employment uses at appropriate locations within the City in a planned and aesthetically pleasing way. This is done by allowing design flexibility as well as a mix of office, research, light industrial, limited neighborhood commercial, and high-density residential uses that are reviewed as a plan for development.
 - (4) *Planned Development-Commercial District (PD-COMM).* The purpose and intent of the Planned Development-Commercial (PD-COMM) District is to provide mixed-use retail and office development, with limited moderate and higher density residential uses integrated into the development above street levels and as separate stand-alone uses.
- (C) *Procedures.* Prior to development, all planned development districts shall be reviewed and approved or approved with conditions in accordance with Section 2.4.3, Planned development.
- (D) *Standards.* All planned development districts shall comply with the general standards of Subsection 3.6.2 of this section, General standards for PD districts, and the specific standards for the individual PD options in Subsection 3.6.3 of this section, Additional standards for PD districts.

3.6.2 General standards for all PD districts.

- (A) *Development parameters.* Prior to the approval of a PD zone district designation, the City Commission shall find the application for the PD zoning district designation and the required PD Master Plan complies with the following standards:
- (1) *Master Plan.* The PD Master Plan:
 - (a) Identifies the general location of land uses within individual development areas or development pods and the mix of land uses;
 - (b)

Calculates the number, type, and mix of land uses, including the total number of residential units, residential densities, and nonresidential intensities within each development area or development pods and the total number, type, and mix of land uses for the entire PD Master Plan;

- (c) Identifies the general location of open space;
 - (d) Identifies the location of environmentally sensitive lands, wildlife habitat, and stream corridors;
 - (e) Identifies the on-site transportation circulation system including arterial and collector roads, existing or projected transit corridors, and pedestrian and bicycle pathways;
 - (f) Identifies on-site potable water and wastewater facilities; and
 - (g) Identifies the general location of all public facility sites serving the development, including transportation, potable water, wastewater, parks, fire, police, EMS, stormwater, solid waste and schools.
- (2) *Consistency with the Comprehensive Plan.* The PD zone district designation and the PD Master Plan is consistent with the Comprehensive Plan.
- (3) *Compatibility with surrounding residential areas.* Development along the perimeter of a PD district is compatible with adjacent existing or proposed future development. In cases where there are issues of compatibility, the PD Master Plan shall provide for transition areas at the edges of the PD district that provide for appropriate buffering and/or ensure a complimentary character of uses. Complimentary character shall be identified based on densities/intensities; lot size and dimensions; building height; building mass and scale; hours of operation; exterior lighting; and siting of service areas.
- (4) *Development phasing plan.* If there are phases of development proposed for the PD, a development phasing plan shall be provided for the PD Master Plan that identifies the general sequence or phases in which the land is proposed to be developed, including how residential and nonresidential development will be timed, how infrastructure and open space will be provided and timed, and how development will be coordinated with the City's capital improvements program. The phasing plan shall be established at the time of approval of the PD Master Plan. It is permissible for a development phasing plan to include only one phase.
- (5) *Conversion schedule.* The PD Master Plan may include a conversion schedule that identifies the range of conversion that may occur between different types of residential uses and between different types of nonresidential uses (i.e., residential to residential, or nonresidential to nonresidential) within the PD Master Plan. These conversions may occur within development areas and between development areas, as long as they occur within the same scheduled phase of development in the development phasing plan, and are consistent with established ranges of conversion set down in the conversion schedule.
- (6) *Public facilities.*
 - (a) The PD Master Plan shall include a transportation component that demonstrates there is or will be adequate capacity concurrent with impacts of development on the City's road system to accommodate the development proposed in the PD Master Plan.
 - (b) The PD Master Plan shall include a potable water and wastewater component that demonstrates adequate capacity for potable water and wastewater is available or will be available concurrent with impacts of development at the time development occurs to accommodate the development proposed in the PD Master Plan.

- (c) The PD Master Plan shall include a parks component that demonstrates that adequate parks and recreation facilities are available or will be available concurrent with impacts of development to accommodate the development proposed in the PD Master Plan.
 - (d) The PD Master Plan shall include a solid waste component that demonstrates that adequate capacity for solid waste is available or will be available concurrent with impacts of development to accommodate the development proposed in the PD Master Plan.
 - (e) The PD Master Plan shall include a stormwater component that demonstrates that adequate capacity for treatment of stormwater runoff is available or will be available concurrent with impacts of development to accommodate the development proposed in the PD Master Plan.
- (7) *Planned development agreement.* Concurrent with the approval of the adopting ordinance for the PD zone district designation and the PD Master Plan, a PD agreement shall be established binding the PD to any conditions placed in the adopting ordinance and PD Plan. The PD agreement shall include, but not be limited to:
- (a) The PD Master Plan, including any PD standards.
 - (b) Conditions related to the approval of the PD Master Plan.
 - (c) Conditions related to the form and design of development in the PD.
 - (d) Provisions addressing how transportation, potable water, wastewater, stormwater management, park, and other public facilities will be provided to accommodate the development proposed for the PD Master Plan, and if phased, how public facilities will be phased accordingly.
 - (e) Provisions related to environmental protection and monitoring.
 - (f) Provisions addressing concurrency compliance requirements.
 - (g) Any other provisions the City Commission determines is relevant and necessary to implement the terms and conditions of the PD Master Plan and any PD terms and conditions statements.

3.6.3 Additional standards for PD districts.

- (A) *PD-R, Planned Development-Residential District.*
- (1) *Minimum area.* A PD-R district shall be a minimum of ten acres in area. The City Commission may waive the minimum size requirement based on a finding that creative site planning through zoning to a PD-R district is necessary to address a physical development constraint, protect sensitive natural areas, or promote a community goal when more conventional development or subdivision would be difficult or undesirable given the constraints on development.
 - (2) *Uses.* The uses allowed in the PD-R district are identified in Table 4.1-1, Table of Allowed Uses. Allowed uses are subject to any use regulations applicable to the PD-R district.
 - (3) *Densities/intensities.* The densities for residential development and the intensities for nonresidential development for the PD Master Plan and PD-R district designation shall be established in the PD Master Plan, and shall be consistent with the Comprehensive Plan. Densities and intensities may exceed that allowed in the base zone districts being replaced by the PD-R district.

- (4) *Dimensional standards.* The dimensional standards of the underlying base zone district being replaced by the PD-R district shall be incorporated into the PD Master Plan and apply to each development area of the PD-R district unless they are modified in ways that are consistent with the general intent and goals for development of the PD-R district and the scale and character of development in the City. Dimensional standards shall include the following:
- (a) *Minimum dimensional requirements.* The minimum lot area, minimum lot width, minimum setback, maximum lot coverage, and maximum height for development.
- (b) *Setbacks from adjoining residential uses.* Minimum setbacks or buffers from adjoining residential development or zone districts.
- (5) *Development standards.* Unless otherwise specifically modified by a PD Master Plan, development in a PD-R district shall comply with the applicable standards Article 6, Development Standards. All modifications to a development standard in Article 6 shall be consistent with this section, and shall be included as a part of the PD Master Plan.
- (a) *General development standards.* The following Table 3.6-1, Development Standards Applicable in the PD-R District, specifies the development standards applicable to development in the PD-R district, and the procedure for modifying a development standard:

Table 3.6-1. Development Standards Applicable

in the PD-R District

Development Standard	Procedure for Modification [1]
Off-street parking and loading (<u>Section 6.1</u>)	Inclusion in a master parking plan
Landscape/tree protection (<u>Section 6.2</u>)	Inclusion in an alternative landscaping plan
Exterior lighting (<u>Section 6.4</u>)	Inclusion in a master lighting plan
Signage (<u>Section 6.5</u>)	Inclusion in a master sign plan

Open space (Section 6.7)	Modifications prohibited
Environmental protection (Section 6.9)	
Concurrency management (Section 2.4.14)	
[1] Development standards shall only be modified in ways that are consistent with the general intent and purpose for the PD-R district.	

- (b) *Public facilities standards.* The PD Master Plan shall ensure that impacts from the development are addressed for the following public facilities:
- (i) *Potable water.* The PD Master Plan shall establish the general location of on-site potable water facilities and how they will connect to the City's potable water system consistent with City laws, and how dedication of land, easements, and/or on-site construction of all potable water facilities/improvements will occur in a manner that complies with City laws.
 - (ii) *Wastewater.* The PD Master Plan shall establish the general location of on-site wastewater facilities and how they will connect to the City's or other wastewater lines and mains and sewer interceptor lines consistent with City laws, and how dedication of land, easements, and/or on-site construction of all wastewater facilities/improvements will occur in a manner that complies with City laws.
 - (iii) *Streets.* The PD Master Plan District shall establish the design of public streets within the PD-R in ways that comply with all applicable City standards, except that right-of-way, pavement widths, street widths, required materials, turning radii, and other design standards may be modified or reduced by the City Commission where it is found that:
 - a. The reduction or modification is necessary as a traffic-calming measure;
 - b. The PD Master Plan provides for separation of vehicular, pedestrian, and bicycle traffic;
 - c. Access for emergency service vehicles is not substantially impaired;
 - d. Adequate off-street parking is provided for the uses proposed; and
 - e. Adequate space for public utilities is provided within the right-of-way.
 - (iv) *Stormwater.* The PD Master Plan District shall establish the design of a stormwater management system within the PD-R in ways that comply with all applicable City standards.
 - (v) *Other.* The PD Master Plan shall establish the responsibility of the landowner/developer for providing right-of-way and easements and for constructing on-site facilities for all other infrastructure located on the site of the proposed PD-R district, including but not limited to, electrical utility lines, telephone lines, cable TV lines, or the underground conduit for such features. The PD Master Plan shall also establish the responsibility of the

landowner/developer to make any other improvements as required by City ordinances, to guarantee construction of all required improvements, and, if requested by the City, to dedicate these improvements to the City in a form that complies with City laws. The PD Master Plan shall also specify the ownership, operation, and maintenance provisions for all on-site facilities not dedicated to the City.

(B) *PD-TND, Planned Development-Traditional Neighborhood Development District.*

(1) *Area.*

- (a) *Minimum development size.* The PD-TND district shall contain a minimum of ten contiguous acres of land. The City Commission may waive the minimum area requirement based on a finding that creative site planning is necessary to address a physical development constraint, protect sensitive natural areas, or promote a community goal when more conventional development or subdivision would be difficult or undesirable given the constraints on development.
- (b) *Preferred development size.* PD-TND districts should be designed to encourage pedestrian activity. Optimal size is generally measured in terms of the distance from the center to the edge of a neighborhood, which will result in a walk of five to ten minutes to meet most daily needs (an approximate distance between one-quarter and one-half mile).

(2) *Uses.*

- (a) *Generally.* PD-TND districts should be structured to provide a balanced mix of uses, including residential, retail, employment, civic, and recreational uses, all within the same development. The integration of uses allows residents to meet more of their daily needs through shorter trips. In addition, provision of a variety of housing types shall be encouraged to allow a greater diversity of residents within the neighborhood.
- (b) *Specific uses.* The uses that are allowed in the PD-TND district are identified in Table 4.1-1, Table of Allowed Uses. Allowed uses are subject to any use regulations applicable to the PD-TND district.
- (c) *Use mixing.*
 - (i) A minimum of 15 percent of the land area in a PD-TND district shall be devoted to nonresidential uses, including civic uses.
 - (ii) Mixed residential and nonresidential uses are encouraged within a single project or structure, particularly integrated or vertical mixed-use projects, in which uses are located on different floors of a single structure.
 - (iii) To encourage a diversity of residents, while at the same time preventing visual monotony in neighborhoods, PD-TND districts shall include a mix of lot sizes and/or dwelling unit types, including but not limited to single-family detached, single-family attached, two- to four-family, townhouse, live/work dwellings, upper-story dwellings or multiple-family dwellings.
- (3) *Densities/intensities.* The densities for residential development and the intensities for nonresidential development for the PD Master Plan and PD-TND district designation shall be established in the PD Master Plan, and shall be consistent with the Comprehensive Plan. Densities and intensities should be sufficient to support a compact, pedestrian-oriented environment, and may exceed that allowed in the underlying base zone district being replaced by the PD-TND district.

- (4) *Dimensional standards.* The dimensional standards of the underlying base zone district being replaced by the PD-TND district shall not apply to PD-TND districts; instead, the dimensional standards shall be established in the PD Master Plan, and shall comply with the following:
- (a) *Buffers from adjoining residential uses.* All PD-TNDs shall comply with any applicable standards that require minimum buffers from adjoining residential development or zone districts.
 - (b) *Setbacks and lot coverage.*
 - (i) Build-to/maximum setback lines that establish a strong street edge by bringing buildings to or close to the sidewalk line are encouraged. Front-loaded garages shall be set back at least two feet behind the front facade of the dwelling they serve, and in no instance shall the linear distance between a front-loaded garage and the sidewalk be less than 18 feet.
 - (ii) Where setbacks are established they shall apply only to the enclosed portions of a building. Front porches and stoops, canopies, and colonnades shall be allowed to encroach into the setback, where a setback may be required. Second-story balconies may encroach up to five feet beyond a lot line that fronts a sidewalk, but in no instance shall the bottom of a balcony extending over a sidewalk be less than nine feet above grade.
 - (iii) The maximum residential building footprint shall not exceed 50 percent of the lot, except that attached dwelling structures may exceed this figure if at least 30 percent of the lot area is developed as private open space.
 - (iv) The maximum nonresidential structure footprint shall not exceed 70 percent of the lot, unless a minimum of ten percent of the lot area is developed as private open space.
- (5) *Development standards.*
- (a) *Off-street parking and loading.* The off-street parking and loading standards for a PD-TND district shall be established in the PD Master Plan in accordance with a master parking plan that is part of the PD Master Plan. PD-TNDs should take advantage of alternative parking strategies like shared parking, deferred parking, off-site parking, or other parking alternatives listed in [Section 6.1](#). Off-street parking and loading standards, to maintain the pedestrian-oriented focus of traditional neighborhood development. Off-street surface parking located between a building and the street it fronts should generally be avoided.
 - (b) *Landscape/tree protection.*
 - (i) *Generally.* The landscaping, buffering, screening, and tree protection requirements for a PD-TND district shall be established in the PD Master Plan in accordance with a master landscape plan. Emphasis should be placed upon integration of land uses and avoidance of suburban-style landscape buffers between different land uses inside the development.
 - (ii) *Street trees.* Shade or canopy trees shall be provided on both sides of all streets in PD-TND development (except alleys) based upon the following standards:
 - a. Street trees shall be planted a maximum of five feet from the back of the curb;
 - b. Street trees shall be planted a maximum of 40 feet on-center;

- c. Each street tree shall be surrounded by an area of pervious surface at least 25 square feet in size;
 - d. Street trees shall comply with the standards in Section 6.2, Tree protection/landscape/xeriscape standards; and
 - e. Understory or ornamental trees may be utilized in areas where overhead utilities exist.
- (c) *Signage.* Unless otherwise specifically modified by a PD Master Plan, the signage in a PD-TND district shall comply with the standards of Section 6.5, Signage. Any modifications to the standards of Section 6.5 shall be specified in a master sign plan included as part of the PD Master Plan. The master sign plan shall establish a design theme that is found to be more consistent with the unique characteristics of the site and surrounding area, as well as a uniform facade and design detail plan for all signs to be used in the development.
- (d) *Exterior lighting.* Unless otherwise expressly provided in these LDRs or in the PD Master Plan, development in PD-TND districts is subject to the exterior lighting standards of Section 6.4, Exterior lighting standards. Any modifications to the standards of Section 6.4, Exterior lighting standards, shall be specified in a master lighting plan included as part of the PD Master Plan.
- (e) *Open space.*
- (i) *Generally.* The design of PD-TNDs should give priority to open space, which should be located throughout the development to compensate for the smaller lot sizes normally associated with traditional neighborhood development. Open space should be designed in a hierarchy of formal and informal spaces and used to enhance community activity, identity, and civic pride.
 - (ii) *Set-aside.* All development in a PD-TND district shall comply with the standards of Section 6.7, Open space standards, which shall not be reduced as part of the approval of any PD-TND district.
 - (iii) *Formal open space.* Some portion of the open space provided within a PD-TND district should be located so as to serve as a central open space or gathering area for the development.
 - (iv) *Perimeter buffer.* All PD-TND districts over 300 acres in area shall preserve/establish, to the maximum extent feasible, a buffer around the perimeter of the development. The perimeter buffer should provide both a buffer and a definable edge between the PD-TND district and adjacent development, and shall have a minimum width of 100 feet. The requirement for buffers may be waived in infill areas in order to maintain the continuity of the urban fabric.
- (f) *Building configuration.*
- (i) *Public buildings and uses.* Public buildings and uses, including, but not limited to, government offices, museums, schools, and libraries, serve as focal points and landmarks for the community within PD-TNDs, and should be located on prominent sites. The PD Master Plan shall designate the general location of publicly or privately owned civic lots for civic buildings and uses, including public monuments or gateways into an ensuing space, as the terminus of street vistas for all major internal streets. In addition, public buildings and uses shall be located fronting on or adjacent to a square, plaza, or village green whenever possible.
 - (ii)

Location and relationship between buildings. In PD-TNDs, private buildings should be used to define the street edge and the distinction between the public domain of the street and the private space of individual lots. To this end, buildings should have a fairly consistent, narrow setback alignment along the street frontage.

- (iii) *Relationship between building types.* Buildings in PD-TNDs should be built on a human-scale and designed with a common, harmonious architectural vocabulary and landscaping to lend an intimate and personal feel to the streetscape. The intent should not be to create a uniform appearance, but rather a distinct sense of place.
- (g) *Environmental protection.* All development in a PD-TND district shall comply with the standards of Section 6.9, Environmental protection standards, which shall not be reduced as part of the approval of any PD-TND district.
- (h) *Public facilities.* The PD Master Plan shall ensure that impacts from the development are addressed for the following public facilities:
 - (i) *Potable water.* The PD Master Plan shall establish the general location of on-site potable water facilities and how they will connect to the City's potable water system consistent with City laws, and how dedication of land, easements and/or on-site construction of all potable water facilities/improvements will occur in a manner that complies with City laws.
 - (ii) *Wastewater.* The PD Master Plan shall establish the general location of on-site wastewater facilities and how they will connect to the City's or other wastewater lines and mains and sewer interceptor lines consistent with City laws, and how dedication of land, easements, and/or on-site construction of all wastewater facilities/improvements will occur in a manner that complies with City laws.
 - (iii) *Streets.* Streets in PD-TNDs should be designed to accommodate the needs of all modes of transportation, including bicycles, and have a strong pedestrian orientation. Traditional neighborhoods usually consist of an interconnected street pattern with short blocks, which provides multiple routes and short walking distances. To contribute to a more dynamic street environment, street travel lanes in PD-TNDs should be narrower than those in conventional developments; sidewalks should be located on both sides of each street and be separated from the curb by street trees; on-street parallel parking should be provided; and, where appropriate, rear lanes for access should be included.
 - (iv) *Stormwater.* The PD Master Plan District shall establish the design of a stormwater management system within the PD-TND district in ways that minimize the visual impact of these facilities, while complying with all applicable City standards.
 - (v) *Other.* The PD Master Plan shall establish the responsibility of the landowner/developer for providing right-of-way and easements and for constructing on-site facilities for all other infrastructure located on the site of the proposed PD-TND district, including but not limited to electrical utility lines, telephone lines, cable TV lines, or the underground conduit for such features. The PD Master Plan shall also establish the responsibility of the landowner/developer to make any other improvements as required by City ordinances, to guarantee construction of all required improvements, and, if requested by the City, to dedicate these improvements to the City in a form that complies with City laws.

(C) *PD-EC, Planned Development-Employment Center District.*

(1)

Minimum area. The PD-EC district shall contain a minimum of ten contiguous acres of land. The City Commission may waive the minimum area requirement based on a finding that creative site planning through designation to a PD-EC district is necessary to address a physical development constraint, protect sensitive natural areas, or promote a community goal when more conventional development or subdivision would be difficult or undesirable given the constraints on development.

(2) *Uses.*

- (a) *Generally.* PD-EC districts are intended to provide for a mix of different employment uses in close proximity to one another. The uses that may be included within the PD-EC district are identified in Table 4.1-1, Table of Allowed Uses. Allowed uses are subject to any use regulations applicable to the PD-EC district.
 - (b) *Medium- and high-density residential.* In addition to employment uses, medium and high-density residential uses (see Table 4.1-1, Table of Allowed Uses) are allowed uses in a PD-EC district, but shall not exceed 25 percent of the entire building square footage of the district. (Single-family detached uses are not allowed in the PD-EC district.)
 - (c) *Commercial.* Retail sales and service uses are also allowed as accessory uses to the employment uses, as long as they do not exceed five percent of the entire building square footage of the PD-EC district.
- (3) *Intensities/densities.* The intensities for nonresidential development and densities for residential development in the PD Master Plan shall be consistent with the Comprehensive Plan. Densities and intensities may exceed that allowable in the underlying base zone district being replaced by the PD-EC district.
- (4) *Dimensional standards.* The dimensional standards of the underlying base zone district in existence prior to the establishment of the PD-EC district shall be incorporated into the PD Master Plan and PD-EC district unless they are modified in ways that are consistent with the general intent and goals for development of the PD-EC district and the scale and character of development in the City. Dimensional standards shall include the following:
- (a) *Minimum dimensional requirements.* The minimum lot area, minimum lot width, minimum setback, maximum lot coverage, and maximum height for development.
 - (b) *Buffers from adjoining residential uses.* All PD-EC districts shall comply with any applicable standards that require minimum buffers from adjoining residential development or zone districts.
- (5) *Development standards.* Unless otherwise specifically modified by a PD Master Plan, development in a PD-EC district shall comply with the applicable standards Article 6, Development Standards. All modifications to a development standard in Article 6 shall be consistent with this section, and shall be included as a part of the PD Master Plan.
- (a) *General development standards.* The following Table 3.6-2, Development Standards Applicable in the PD-EC District, specifies the development standards applicable to development in the PD-EC district, and the procedure for modifying a development standard:

Table 3.6-2. Development Standards Applicable

in the PD-EC District

Development Standard	Procedure for Modification [1]
Off-street parking and loading (Section 6.1)	Inclusion in a master parking plan
Landscape/tree protection (Section 6.2)	Inclusion in an alternative landscaping plan
Exterior lighting (Section 6.4)	Inclusion in a master lighting plan
Signage (Section 6.5)	Inclusion in a master sign plan
Open space (Section 6.7)	Modifications prohibited
Environmental protection (Section 6.9)	
Concurrency management (Section 2.4.14)	

[1] Development standards shall only be modified in ways that are consistent with the general intent and purpose for the PD-EC district.

(b) *Perimeter buffer standards.* In addition to the standards in Table 3.6-2, Development in a PD-EC shall comply with the following standards:

- (i) A landscaped buffer with a minimum width of 50 feet shall be required surrounding the entire PD-EC development. Such buffer areas shall be developed and maintained in accordance with Section 6.2.2(D)(3), Perimeter buffers.
- (ii) The City Commission may modify the width of the perimeter buffer based on the proposed buffer's ability to mitigate potential adverse impacts on adjacent properties and rights-of-way.
- (iii)

Up to 100 percent of the perimeter buffer area may be credited towards satisfying the common open space requirements if the City Commission finds that the buffer area substantially meets the locational and design standards for open space established in Section 6.7, Open space standards.

- (c) *Public facilities.* The PD Master Plan shall ensure that impacts from the development are addressed for the following public facilities:
- (i) *Potable Water.* The PD Master Plan shall establish the general location of on-site potable water facilities and how they will connect to the City's potable water system consistent with City laws, and how dedication of land, easements, and/or on-site construction of all potable water facilities/improvements will occur in a manner that complies with City laws.
 - (ii) *Wastewater.* The PD Master Plan shall establish the general location of on-site wastewater facilities and how they will connect to the City's or other wastewater lines and mains and sewer interceptor lines consistent with City laws, and how dedication of land, easements, and/or on-site construction of all wastewater facilities/improvements will occur in a manner that complies with City laws.
 - (iii) *Streets.* The design of public streets within a PD-EC district shall comply with all applicable City standards, except that right-of-way, pavement widths, street widths required materials, turning radii, and other design standards may be modified or reduced by the City Commission where it is found that:
 - a. The reduction or modification is necessary as a traffic-calming measure;
 - b. The master plan for the PD provides for separation of vehicular, pedestrian and bicycle traffic;
 - c. Access for emergency service vehicles is not substantially impaired;
 - d. Adequate off-street parking is provided for the uses proposed; and
 - e. Adequate space for public utilities is provided within the right-of-way.
 - (iv) *Stormwater.* The PD Master Plan District shall establish the design of a stormwater management system within the PD-EC district in ways that minimize the visual impact of these facilities, while complying with all applicable City standards.
 - (v) *Other.* The PD Master Plan shall establish the responsibility of the landowner/developer for providing right-of-way and easements and for constructing on-site facilities for all other infrastructure located on the site of the proposed PD-EC district, including but not limited to electrical utility lines, telephone lines, cable TV lines, or the underground conduit for such features. The PD Master Plan shall also establish the responsibility of the applicant to make any other improvements as required by City ordinances, to guarantee construction of all required improvements, and, if requested by the City, to dedicate these improvements to the City in a form that complies with all relevant laws.

(D) *PD-COMM, Planned Development-Commercial District.*

- (1) *Minimum area.* A PD-COMM district shall be a minimum of ten acres in area. The City Commission may waive the minimum size requirement based on a finding that creative site planning through zoning to a PD-COMM district is necessary to address a physical development constraint, protect sensitive natural areas, or promote a community goal when more conventional development or subdivision would be difficult or undesirable given the constraints on development.

- (2) *Uses.* The uses allowed in the PD-COMM district are identified in Table 4.1-1, Table of Allowed Uses. Allowed uses are subject to any use regulations applicable to the PD-COMM district. A mix of retail and office with moderate and higher density residential uses above street levels is encouraged.
- (3) *Densities/intensities.* The densities for residential development and the intensities for nonresidential development for the PD Master Plan and PD-COMM district designation shall be established in the PD Master Plan, and shall be consistent with the Comprehensive Plan. Densities and intensities may exceed that allowed in the previously-existing base zoning district being replaced by the PD designation.
- (4) *Dimensional standards.* The dimensional standards of the underlying base zone district being replaced by the PD-COMM district shall be incorporated into the PD Master Plan and apply to each development area of the PD-COMM district unless they are modified in ways that are consistent with the general intent and goals for development of the PD-COMM district and the scale and character of development in the City. Dimensional standards shall include the following:
 - (a) *Minimum dimensional requirements.* The minimum lot area, minimum lot width, minimum and maximum setbacks, maximum lot coverage, maximum height for development, and maximum individual building size.
 - (b) *Setbacks from adjoining residential uses.* Minimum setbacks from adjacent residential development or zone districts.
- (5) *Development standards.* Unless otherwise specifically modified by a PD Master Plan, development in a PD-COMM district shall comply with the applicable standards Article 6, Development Standards. All modifications to a development standard in Article 6 shall be consistent with this section, and shall be included as a part of the PD Master Plan.
 - (a) *General development standards.* The following Table 3.6-3, Development Standards Applicable in the PD-COMM District, specifies the development standards applicable to development in the PD-COMM district, and the procedure for modifying a development standard:

Table 3.6-3. Development Standards Applicable

in the PD-COMM District

Development Standard	Procedure for Modification [1]
Off-street parking and loading (<u>Section 6.1</u>)	Inclusion in a master parking plan
Landscape/tree protection (<u>Section 6.2</u>)	Inclusion in an alternative landscaping plan
Exterior lighting (<u>Section 6.4</u>)	Inclusion in a master lighting plan

Signage (Section 6.5)	Inclusion in a master sign plan
Open space (Section 6.7)	Modifications prohibited
Environmental protection (Section 6.9)	
Concurrency management (Section 2.4.14)	
[1] Development standards shall only be modified in ways that are consistent with the general intent and purpose for the PD-COMM district.	

- (b) *Public facilities standards.* The PD Master Plan shall ensure that impacts from the development are addressed for the following public facilities:
- (i) *Potable water.* The PD Master Plan shall establish the general location of on-site potable water facilities and how they will connect to the City's potable water system consistent with City laws, and how dedication of land, easements, and/or on-site construction of all potable water facilities/improvements will occur in a manner that complies with City laws.
 - (ii) *Wastewater.* The PD Master Plan shall establish the general location of on-site wastewater facilities and how they will connect to the City's or other wastewater lines and mains and sewer interceptor lines consistent with City laws, and how dedication of land, easements, and/or on-site construction of all wastewater facilities/improvements will occur in a manner that complies with City laws.
 - (iii) *Streets.* The PD Master Plan District shall establish the design of public streets within the PD-COMM in ways that comply with all applicable City standards, except that right-of-way, pavement widths, street widths, required materials, turning radii, and other design standards may be modified or reduced by the City Commission where it is found that:
 - a. The reduction or modification is necessary as a traffic-calming measure;
 - b. The PD Master Plan provides for separation of vehicular, pedestrian, and bicycle traffic;
 - c. Access for emergency service vehicles is not substantially impaired;
 - d. Adequate off-street parking is provided for the uses proposed; and
 - e. Adequate space for public utilities is provided within the right-of-way.
 - (iv) *Stormwater.* The PD Master Plan District shall establish the design of a stormwater management system within the PD-COMM in ways that comply with all applicable City standards.
- (v)

Other. The PD Master Plan shall establish the responsibility of the landowner/developer for providing right-of-way and easements and for constructing on-site facilities for all other infrastructure located on the site of the proposed PD-COMM district, including, but not limited to, electrical utility lines, telephone lines, cable TV lines, or the underground conduit for such features. The PD Master Plan shall also establish the responsibility of the landowner/developer to make any other improvements as required by City ordinances, to guarantee construction of all required improvements, and, if requested by the City, to dedicate these improvements to the City in a form that complies with City laws. The PD Master Plan shall also specify the ownership, operation, and maintenance provisions for all on-site facilities not dedicated to the City.

(Ord. No. 18-08, § 3(Exh. A), 4-9-2018)

Sec. 3.7. - Overlay districts.

3.7.1 *Purpose and intent.* Lands in the City may be classified into one of the base zone districts in [Section 3.2](#), Conservation district, [Section 3.3](#), Agricultural district, [Section 3.4](#), Residential districts, or [Section 3.5](#), Business districts, and also one of the overlay districts set forth in this section. Where land is classified into an overlay district as well as a base zone district, the regulations governing development in the overlay district shall apply in addition to those required by the base zone district. In the event of a conflict between the standards governing a base zone district and those governing an overlay district, the standards governing the overlay district shall control.

3.7.2 *Districts.*

(A) *HO, Historic Overlay District.*

- (1) *General purposes.* The City recognizes its historic and architectural resources are assets that are important to its health, safety, and economic, educational, cultural, and general welfare. The general purposes of the Historic Overlay (HO) District are to:
 - (a) Protect the beauty of the City and improve the quality of its environment through identification, recognition, conservation, maintenance and enhancement of its historic and architectural resources;
 - (b) Protect designated land and buildings or structures having historic and architectural significance from the intrusion of development that fails to protect such significance;
 - (c) Stabilize and improve property values in such districts, strengthening the local economy;
 - (d) Foster civic pride; and
 - (e) Encourage redevelopment of the City's downtown.
- (2) *Applicability.* The standards in this section shall apply to the following areas:
 - (a) The City of Alachua Downtown Historic District, which includes all lots in an area bounded by Northwest 145th Avenue, Northwest 145th Terrace, Northwest 148th Place, and 138th Terrace as depicted on the map of the district maintained in the office of the LDR Administrator; and
 - (b) Any other Historic Overlay District established in accordance with Section 2.4.5.

(3)

Standards for designation of a new HO district. Lands or buildings or structures shall be presumed to have historical or archeological significance if they meet one or more of the following standards:

- (a) Two-thirds of the land is listed on the National Register of Historic Places or the State of Florida Historical Register (State master site file);
- (b) The lands are within a district listed on the National Register of Historic Places or the State of Florida Historical Register (State master site file);
- (c) The lands area site of archeological significance to the City, State or Nation;
- (d) The lands or buildings are a site of a significant event in the history of the City, State or Nation;
- (e) The lands or buildings are a site identified with a person who made significant contributions of historical noteworthiness to the City, State or Nation;
- (f) It is a building or structure identified as the work of a master builder, designer, or architect whose individual work has influenced the development of the City, State or Nation;
- (g) Its value as a building is recognized for the quality of its architecture, and it retains sufficient elements showing its architectural significance;
- (h) It has distinguishing characteristics of an architectural style, value for the study of a period, method of construction, or use of indigenous materials; or
- (i) Its character is a geographically definable area possessing a significant concentration, or continuity of sites, buildings, objects or structures united in past events that is of historical significance to the City, State or Nation.

In addition, the proposed district must have the support of a minimum of two-thirds of the property owners within the district.

(4) *Designation or amendment of HO district boundaries.*

- (a) The procedures for a designation or amendment of HO district boundaries shall be as provided for as an amendment to the Official Zoning Atlas pursuant to Section 2.4.5, Historic Overlay (HO) District classification.
- (b) The advisability of amending the HO district boundary is a matter committed to the legislative discretion of the City Commission and is not controlled by any one factor. In considering an amendment to the HO district boundary, the City Commission shall consider the factors identified in Subsection 3.7.2(A)(3) of this section, Standards for designation of a new HO district.

(5) *HO district development standards.*

- (a) *Certificate of appropriateness required.* Once land, buildings, or structures are classified within an HO district, no demolition, removal, relocation, new construction, addition, or alteration of exterior architectural features shall occur within the district without the issuance of a certificate of appropriateness in accordance with Section 2.4.6, Certificate of appropriateness. The certificate shall occur prior to any demolition, new construction, addition, or alteration of exterior architectural features.
- (b) *Visual compatibility standards.* All new construction of any type and all exterior changes to existing structures in a HO district shall comply with the terms and conditions of a certificate of appropriateness issued pursuant to the procedures set forth in Section 2.4.6.

(B) *NCO, Neighborhood Conservation Overlay District.*

- (1) *General purposes.* Neighborhood Conservation Overlay (NCO) Districts are established and intended to conserve residential neighborhoods and areas in the City that retain the character of early periods of development, stabilize and improve property values in such areas, and promote new construction that is compatible with the character of such areas. These requirements will overlay or supplement the applicable standards found in the underlying zone districts, while not affecting permitted uses.
- (2) *List of specific NCO districts and purposes and standards.* The following NCO districts are designated in the City:
 - (a) North Main NCO District.
 - (b) College Heights NCO District.
- (3) *Minimum standards for designation of a NCO district.* The following shall be the minimum standards that must be met prior to the City Commission designating an NCO district:
 - (a) The NCO district designation shall be reviewed and approved by the City Commission as a site-specific amendment to the Official Zone District Atlas, in accordance with Section 2.4.2, Site specific amendment to Official Zoning Atlas;
 - (b) At least 65 percent of the land area within the proposed district, not including street and other rights-of-way, is currently developed;
 - (c) Record owners of more than 50 percent of the land included in the district, excluding public rights-of-way, shall consent to the NCO district designation;
 - (d) Development patterns in the district evidence an ongoing effort to maintain or rehabilitate the character and physical features of existing buildings in the district;
 - (e) There is existing or potential pressure for new development or redevelopment and new infill development; and
 - (f) The development standards applied to the district shall encourage the retention of the general character and appearance of existing development in the district.
- (4) *Uses.* Permitted and special exception uses allowed in the underlying zone district shall be allowed in the NCO district, unless modified by the NCO district standards.
- (5) *Specific development standards.* All new development in a NCO district shall comply with the following development standards. In the case of conflict between these NCO district development standards and any other provision of these LDRs (including those contained in Article 6, Development Standards), these NCO district development standards shall govern.
 - (a) *Orientation.* The building fronts of all new residential structures shall be oriented towards the front yards of the lot.
 - (b) *Average front setbacks.*
 - (i) When more than 50 percent of the existing front setbacks on the same and facing block faces (both sides of the street) are less than the minimum required by the underlying zone district, development shall use an average front setback rather than the minimum front setback for the underlying zone district.

- (ii) The average front setback is the average of the existing front setbacks of buildings located on the same and facing block faces as the proposed development.
 - (iii) For purposes of subsections 3.7.2(B)(5)(b)(i) and (ii) of this section, only lots with similar uses to the use proposed for development are included in the calculations.
 - (iv) If lots on the same or facing block face are vacant, the setback that exists on such vacant lots is the minimum front setback required by the underlying zone district or approved subdivision plat.
- (c) *Contextual building heights.*
- (i) Notwithstanding the maximum height standards established in [Section 5.1](#) for the underlying base zone district, the height of new development may fall at any point between the height of existing buildings on either or both lots adjacent to the subject lot.
 - (ii) If lots on either side of the subject lot are vacant, the "contextual" building height shall be no more than 125 percent of the height of the tallest building on the same block face.
- (d) *Residential lot coverage limits.* The lot coverage of a proposed residential dwelling shall be at least 75 percent and no more than 125 percent of the average lot coverage of other dwelling units located on the same or facing block face (both sides of the street).
- (e) *Structure appearance.* New development in an NCO district shall be generally compatible with the design and appearance of other existing structures on the block face. At least three of the following features of the new construction must be substantially similar to the majority of other buildings on the same or facing block (both sides of the street):
- (i) Roof pitch;
 - (ii) Roof material;
 - (iii) Roof overhang;
 - (iv) Exterior building material;
 - (v) The shape, size, and alignment of windows and doors; or
 - (vi) Front porches or porticos.
- (f) *Preservation of special district features.* To the maximum extent feasible, best efforts shall be applied to preserve historic, culturally significant, and unique structures in the district, as well as trees worthy of preservation.
- (g) *Specific neighborhood design standards.* The City Commission may adopt additional neighborhood design standards specific to a proposed NCO district, and all new development in the specific NCO district shall comply with those standards. In the case of conflict between these adopted NCO district standards and any other provision of these LDRs, the specific NCO district standards shall apply.

(C) *U.S. Highway 441/Interstate 75 Gateway Overlay District.*

(1) *General purposes.* In recognition of the importance of promoting the City as an attractive, vibrant, and economically prosperous community, and in accordance with the requirements of Future Land Use Element Policy 1.3.f.1 of the City's Comprehensive Plan, the City hereby creates the U.S. Highway 441/Interstate 75 Gateway Overlay District for the purpose of:

- (a) Welcoming existing and future residents and visitors to the City;
- (b) Promoting Alachua as an attractive, vibrant, and economically prosperous community;
- (c) Establishing consistent and harmonious design standards in order to unify the visual quality of the Gateway Overlay District;
- (d) Creating an enhanced visual gateway to an area that serves as a main entrance to the City;
- (e) Improving the sense of place and community;
- (f) Creating a positive impression of the City, reflecting community values;
- (g) Maintaining and enhancing property values; and
- (h) Protecting the public health, safety, and welfare.

(2) *Applicability.*

- (a) The standards of this section shall apply to all lands that lie within 2,000 feet of the radius of the center point of the interchange of U.S. 441 and I-75.
- (b) The standards of this section shall apply to the entire parcel when all or a portion of a parcel is located within the Gateway Overlay District.
- (c) All proposed uses on property located within the Gateway Overlay District shall comply with all of the requirements of this section.
- (d) All proposed uses on property located within the Gateway Overlay District shall be subject to the development standards set forth in the underlying zoning district, unless a more restrictive standard is established in this section.
- (e) Existing legally approved development on property located within the Gateway Overlay District shall be considered to be a legal nonconformity subject to the nonconformity requirements set forth in Article 8.

(3) *Exemptions.*

- (a) Properties with a zoning designation of Planned Unit Development (PUD) or Planned Development (PD) as of the effective date of these regulations (May 23, 2011) shall be exempt from Section 3.7.2 (C) in its entirety.
- (b) Upon written application, the LDR Administrator may grant exemptions from Section 3.7.2(C)(5), Development Standards, for parcels or portions of a parcel that would otherwise be included in the Gateway Overlay District, based on one or more of the following findings:
 - (i) Due to site topography, the development of the property or portion of the property to be exempted will not be substantially visible from I-75 or U.S. 441.
 - (ii) The property is proposed to be developed with a residential, passive recreation, or agricultural related use located on an individual parcel that is not part of a subdivision permitted after the effective date of these regulations.

(4) *Prohibited uses.*

- (a) Permitted and special exception uses allowed in the underlying zoning designation shall be allowed in the U.S. 441/1-75 Gateway Overlay District, unless modified by the Overlay District standards of this section. The following uses shall be prohibited within the U.S. 441/1-75 Gateway Overlay District:
 - (i) Automobile body shop.
 - (ii) Commercial parking lot or structure.
 - (iii) Crematory.
 - (iv) Funeral home.
 - (v) Laundromat.
 - (vi) Machine shop.
 - (vii) Outdoor display of any type of motorized vehicles, boats, or equipment for sale or rental, except for automobile rentals associated with hotels or motels.
 - (viii) Outdoor kennel.
 - (ix) Recycling dropoff center.
 - (x) Sexually oriented businesses.
 - (xi) Tattoo parlors.

(5) *Development standards.*

(a) *Building design and orientation.*

- (i) Architectural elevation plans, drawn to scale, shall be required for all projects involving exterior renovation or new construction.
- (ii) Except for roofs, metal shall not be used as a finish building material.
- (iii) When two or more buildings are proposed on a single lot of record, the primary building shall be oriented to face the public right-of-way.
- (iv) All accessory structures shall be of comparable design and building materials to the principal structure.
- (v) Glazing shall constitute a minimum of 35 percent of the ground floor area when a building faces and is substantially visible from U.S. 441 or I-75.
- (vi) Exterior building walls facing a public right-of-way shall incorporate no fewer than three architectural elements comparable to those listed below. Architectural elements contributing to this requirement shall have sufficient visual impact to be noticeable from the public right-of-way, and may include, but not be limited to:
 - a. Accent materials.
 - b. Public art.

- c. Architectural details, such as tile work and molding integrated into the building facade.
- d. Recesses and/or projections.
- e. Roof overhang, which shall vary according to building width, as follows: one-foot overhang for buildings less than 50 feet in width, two-foot overhang for buildings 50 to 100 feet in width, and three-foot overhang for buildings greater than 100 feet in width.
- f. Varied roof lines.
- g. Articulated cornice lines.
- h. Canopies, awnings, and/or porticos.
- i. Use of brick in at least 30 percent of the facade.
- j. Window shutters.
- k. Change in building materials.
- l. Prominent public entrances defined by substantive architectural features.
- m. Fountain or other water feature.

(b) *Fencing.*

- (i) With the exception of ornamental fencing, fences erected after the effective date of these regulations for property with frontage along U.S. 441 shall be installed in the side or rear yard only. Ornamental fencing may be erected inside the front yard.

(c) *Outside storage areas.*

- (i) All accessory outdoor storage areas shall be screened in accordance with Section 4.4.4(E). Such screening requirements shall apply to the parking of all vehicles used for commercial purposes.
- (ii) Areas for outdoor storage, trash collection, and loading shall be incorporated into the primary building design. Construction materials for such areas shall be of comparable quality and appearance as the primary building.

(d) *Street buffer.*

- (i) Buffering for properties with frontage along I-75 and U.S. 441 shall meet the requirements of Section 6.2.3(E).
- (ii) The minimum landscaped buffer width shall be 15 feet. No existing, dedicated, or reserved public or private right-of-way shall be included in the calculation of the buffer width.
- (iii) Live Oak shall be used as the required canopy tree. Applicants shall use the following plant materials, in order to create a consistent and uniform planting program for the Gateway Overlay District:
 - a. American Holly.

- b. Crape Myrtle.
- c. Drake Elm.
- d. Ligustrum.
- e. Red Maple.
- f. Southern Magnolia.
- g. Southern Red Cedar.
- h. Oak.
- i. Bradford Pear.

(e) *Parking areas.*

- (i) All parking areas shall be designed to avoid the appearance of a large expanse of pavement, and shall be conducive to safe pedestrian access and circulation.
- (ii) No more than 25 percent of required parking shall be located in the front of the principal structure, for properties with frontage along U.S. 441. The percentage may be adjusted by the LDR Administrator if the applicant provides written information demonstrating that the property's characteristics, such as size and/or site topography, prevent the applicant from meeting this requirement. Under no circumstances shall be percentage of required parking located in front of the principal structure exceed 50 percent, and shall be the minimum necessary.
- (iii) Parking spaces shall not be located within a public right-of-way.

(f) *Loading areas.*

- (i) Loading areas shall not face a public right-of-way and shall be located at the rear of the principal structure when feasible.

(g) *Access.*

- (i) Any parcel or assembly of parcels having frontage along U.S. 441 shall be permitted only one direct access. New development shall be designed for cross access to adjacent parcels.

(h) *Signage.* Except as stated below, signs within the Gateway Overlay District shall comply and be subject to the standards in Section 6.5.

(i) *Prohibited signs.*

- a. Billboards.
- b. Signs that display video or images.
- c. Balloons, streamers, and air- or gas-filled figures.
- d. Promotional beacons, searchlights, and/or laser lights/images.

- e. Signs that emit audible sounds, smoke, vapor, particles, or odor.
 - f. Signs on utility poles or trees.
 - g. Signs or advertising devices attached to any vehicle or trailer so as to be visible from public right-of-way, including vehicles with for sale signs and excluding vehicles used for daily transportation, deliveries, or parked while business is being conducted on-site.
 - h. Neon tubing used to line the windows, highlight architectural features on the building, or used as part of a sign, excluding incidental signs as provided for in Section 2.4.11.
- (ii) *Freestanding signs.*
- a. Monument signs shall be permitted within the Gateway Overlay District.
 - b. A monument sign, including its structure, shall not exceed 16 feet in height.
 - c. A sign and its structure shall be composed of materials identical to or similar in appearance, color, and texture to the materials used for the building to which the sign is accessory.
 - d. A sign and its structure shall not exceed 100 square feet per side. Changeable copy signs shall only be allowed to comprise up to 50 percent of the total sign area.
 - e. Properties with buildings containing multiple tenants or shopping centers shall be limited to one freestanding sign for any one premises, except that a parcel with more than 400 feet of frontage on one or more roads may have two freestanding signs, which must be separated from each other by at least 150 feet of road frontage. A sign and its structure shall not exceed 150 square feet per side. Changeable copy signs shall only be allowed to comprise up to 30 percent of the total sign area.
- (iii) *Window signs.*
- a. Window signs shall be incorporated into the overall sign area allowed for wall signage as per Section 6.5.4(C)(2).
 - b. Signage on any individual window shall not comprise more than 25 percent of the window area.
- (iv) *Landscaping and buffering.*
- a. All freestanding signs shall provide a landscaped area around base of the sign meeting the following standards:
 - i. Installation of a three-foot landscaped buffer around the base of the sign.
 - ii. Such buffer must be landscaped with a mixture of shrubs, flowers, and/or other plantings native to the area.
 - iii. Xeriscaping shall be utilized to the fullest extent possible to promote sustainable landscaping.
 - iv. Provisions shall be made for irrigation if xeriscaping is not utilized.
- (v) *Nonconforming signs.*
- a. Nonconforming signs shall be subject to the nonconforming standards as established in Article 8.

(Ord. No. 11-06, § 3, 5-23-2011; Ord. No. 14-08, § 3(Exh. A), 9-8-2014; Ord. No. 18-01, § 3(Exh. A), 10-23-2017; Ord. No. 19-22, § 3(Exh. A), 3-25-2019; Ord. No. 19-31, § 3(Exh. A), 7-22-2019)

Article 4 - USE REGULATIONS

Footnotes:

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State Law reference— Provisions to regulate land use required, F.S. § 163.3202(2)(b).

Sec. 4.1. - Table of uses.

Table 4.1-1, Table of Allowed Uses, sets forth the uses allowed within the general use zone districts.

4.1.1 *Explanation of table.*

- (A) *Organization of use table.* Table 4.1-1, Table of Allowed Uses, organizes the uses by use classifications, use categories and use types.
- (1) *Use classifications.* The use classifications are: residential uses; public and institutional uses; agricultural uses; and future land uses into broad general classifications (e.g., residential and business uses). The use classifications then organize land uses and activities into general use categories and specific use types based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions.
 - (2) *Use categories.* The use categories describe the major subgroups of the use classification, based on common characteristics (e.g., the residential use classification is divided into two major use categories: household living and group living). Principal uses are identified in defining the use category. They are principal uses that most closely share the common characteristics that are key to the use category.
 - (3) *Use types.* The use categories are divided into specific use types. The specific use types are included in the respective use category. They identify the specific uses that are considered to fall within characteristics identified in the use category. For example, single-family detached dwellings, single-family attached dwellings, two- to four-family dwellings, townhouses, multiple-family dwellings, manufactured dwellings, and mobile home dwellings are use types in the household living use category.
 - (4) *Use classifications, use categories and use types defined.* The term "use classifications" is defined and the common characteristics of each use category are identified in Section 4.2, Use classifications, use categories and use types. The term "use types" is defined in Article 10, Definitions.
- (B) *Permitted uses.* The letter "P" in a cell indicates that a use category or use type is allowed by right in the respective zone district, subject to compliance with the use-specific standards set forth in the final column of the use table. Permitted uses are subject to all other applicable regulations of these LDRs, including those set forth in Article 5, Density, Intensity and Dimensional Standards; Article 6, Development Standards; and Article 7, Subdivision Standards.

- (C) *Special exception uses.* The letter "S" in a cell indicates that a use category or use type is allowed as a special exception in the respective zone district, subject to compliance with the use-specific standards set forth in the final column of the table and approval of a special exception permit in accordance with the procedures and standards of Section 2.4.4, Special exception permit.
- (D) *Allowed uses in planned developments.* The letter "A" in a cell indicates that a use category or use type is an allowed use in the respective planned development district, subject to compliance with the standards for planned development district approval.
- (E) *Prohibited uses.* A blank cell indicates that the use type is prohibited in the zone district.
- (F) *Use specific standards.* Regardless of whether a use category or use type is permitted by right or permitted as a special exception use, there may be additional regulations that are applicable to a specific use. The existence of these use-specific standards is noted through a section reference in the last column of the use table entitled Use Specific Standards. References refer to [Section 4.3](#), Use specific standards. These standards apply to all zone districts unless otherwise specified.
- (G) *Uses not listed.* The LDR Administrator shall determine whether or not an unlisted use is part of an existing use category defined in [Section 4.2](#), Use classifications, use categories and use types, or is substantially similar to an already defined use type, using the standards in [Section 4.2](#), Use classifications, use categories and use types.

4.1.1 Table of allowed uses.

Table 4.1-1. Table of Allowed Uses

P = Permitted use S = Special exception permit A = Allowed in the PD districts Blank cell = Prohibited

Use Category/Use Type	CSV	^	Residential			Business								Planned Development				Use Specific Standards (Sec. 4.3)
			Single-Family (RSF)		Mobile Home (RMH)	Multiple Family (RMF)	OR	CN	CC	CBD	CI	CP	ILW	IG	GF	COMM	R	TND
			1	3	4	6	5	P	8	15								
RESIDENTIAL USES																		

	Household living																				
Dwelling, live/work		P					P	P	P	P	P	P	P	P	P	P	A	A	A	A	
Cottage neighborhood														P						4.3.1(A)(5)	
Dwelling, manufactured home		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	4.3.1(A)(1), (2)	
Dwelling, mobile home		P			P	P														4.3.1(A)(1)	
Dwelling, multiple-family				S		P	P	P	P	P	P	P	P	P	P	A	A	A	A	4.3.1(A)(3)	
Dwelling, single-family attached				P		P	P	P			P	P	P				A	A	A		4.3.1(A)(3)
Dwelling, single-family detached		P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A			4.3.1(A)(4)	
Dwelling, townhouse			S	S	S		P	P	P			P	P			A	A	A		4.3.1(A)(3)	
Dwelling, two- to four-family			S	S	P		P	P	P			P	P	P		A	A	A		4.3.1(A)(3)	

	Community center	S			S	S	S	S	S	P		P			P	A	A	A	4.3.2(A)
	Cultural facility						S	S	P	P	P	P		P	P	A	A	A	4.3.2(A)
	Library				S		P	P	P	P	P	P		P	A	A	A	A	4.3.2(A)
	Senior center				S	P	P	P	P	P	P	P		P		A	A		4.3.2(A)
	Youth club facility				S	P	P	P	P	P	P	P		P		A	A		4.3.2(A)
	Day care																		
	Adult care center	S	S	S	S	S	S	S	S	S	S	S	S		A	A	A	A	
	Child care center	S	S	S	S	S	S	P	P	P	P	P	P	P	A	A	A	A	4.3.2(B)(1)
	Day care home (up to and including 6 persons)	S	S	S	S	S	S	S	P	P	P	P			A				
	Overnight child care center	S			S	S	S	P	P	P	P	P	P			A			4.3.2(B)(1)
	Educational facilities																		
	College or university					S		P	P	S		P	P	P	P	P	A	A	A
	School	P	S	S	S	P	P	P	P		P	P			P	A	A		4.3.2(C)(1)

	Vocational school				S	S	S	P	P	S	P	P	P	P	P	P	P	P	A	A	A	A	4.3.2(C)(1)
	Government facilities																						
	Government maintenance, storage, and distribution facility										S	S	P		P	P	P	A			A	4.3.2(D)	
	Government office							P		P	P	P	P			P	A		A	A	4.3.2(D)		
	Post office				S	S	S	S	S	P	P	P	P	P	P	P	P	A	A	A	A	4.3.2(D)	
	Health care facilities																						
	Blood collection facility												P	P	P	P	A			A			
	Birth center							P	S	P	P	P	P				A		A	A			
	Hospital	S				S	S		P	P			P		P	A		A	A	4.3.2(E)(1)			
	Medical and dental clinic							P	S	P	P	P	P				A		A	A			
	Medical and dental lab								P		P	P	P	P		A			A				

Medical marijuana dispensing																						
Outpatient facility					S	S		S	P	P	P				A		A	A	4.3.2(E)(2)			
Institutions																						
Assisted living facility		S		S	S		P	P	S							A	A	A	A			
Auditorium								S	P	P	S	P	P		P	A			A	4.3.2(F)(1)		
Convention center								S	P	P	S	P	S		P	A			A	4.3.2(F)(1)		
Drug and alcohol treatment facility									P													
Nursing home		S				S	S	P		P	P					A		A				
Psychiatric treatment facility									P							A						
Religious institution, with seating capacity less than 300 in sanctuary or main activity area	P	S	S	S	S	P	P	P	P	P	P	P	P	P	P	A	A	A	A	4.3.2(F)(2)		

Religious institution, with seating capacity of 300 or greater in sanctuary or main activity area, or with accessory schools, day care centers with more than 50 children, or recreational facilities	P	S	S	S	S	S	S	S	S	S	S	S	P	P	P	P	P	P	A	A	A	A	4.3.2(F)(2)
Parks and open areas																							
Arboretum	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A	
Botanical garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A	
Cemetery, columbaria, mausoleum	P				S	S	S	S	S				P		P		P						
Community garden	P	P	P	P	P	P	P	P	P						P		P		A	A	A		
Golf course, public	P	P	P	P	P	P	P	P	P						P	P		P	A	A	A		

Park, private and public	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A		
Public square	S	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A		
Recreational trail	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A		
Resource-based recreation uses, nonintensive	P	P	P	P	P	P	P	P	P	P	P	P			P	P		P	A	A	A	A		
Resource-based recreation uses	S	S	P	P	P	P	P	P	P						P			P	A	A	A	A		
Public safety																								
Fire and EMS		P		S	S	S	S	S	P	P	P	P	P	P	P	P	P	P	A	A	A	A	4.3.2(G)	
Police station		P		S	S	S	S	S	P	P	P	P	P	P	P	P	P	P	A	A	A	A	4.3.2(G)	
Substation for fire and City police		P			S	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A	4.3.2(G)	
Transportation																								
Airport		S											S		S			S	P				A	
Airplane landing strip		S											S		S			S	P	A	A	A	A	4.3.2(H)(1)

	Helicopter landing facilities	S							S	S				S	S	S	S	S	S	P	A			A	4.3.2(H)(2)
	Passenger terminal, surface transportation													S		P	P	P	P	P	A				
	Utilities																								
	Wireless communication tower and/or antenna, freestanding	S	P	S	S	S	S	S	S	S	S	S	S	P	S	P	P	P	P	P	A		A	A	4.3.2(I)(1)
	Wireless communication antenna, collocation on existing tower	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A		A	A	4.3.2(I)(1)
	Wireless communication antenna, placement on existing building	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A		A	A	4.3.2(I)(1)

Railroad right-of-way	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A	
Utility, major		S	S	S	S	S	S	S	S			S	S	S	S	S	S	P	A	A	A	A	4.3.2(l)(3)
Utility, minor		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	A	A	A	A	4.3.2(l)(4)

AGRICULTURE

Agriculture																							
General use category																							
Medical marijuana cultivation																							
Non-medical marijuana cultivation																							
Animal husbandry																							
General use category																							
Horticulture																							

Agricultural research facility	P								P	P	P									4.3.3(B)(1)
Animal care business	P									P										
Auction arena for livestock	S									S	S									
Central farm distribution hub for agricultural products	P									P	P									4.3.3(B)(1)
Equestrian facility	P																			4.3.3(B)(2)
Fair grounds	S																	A		
Farm machinery repair	P								P	P										
Farm machinery sales, rental, and service	P								P	P								A		
Landscape services	S																			4.3.3(B)(4)
Stable	P																			4.3.3(B)(3)

Animal sales, service and care																		
Animal hospital	P								P		S				A			4.3.3(C)(1)
Animal shelter	S								S		P			A				4.3.3(C)(2)
Animal grooming	P								P	P	P		P	A				
Kennel, indoor	P			S	S		S	P		S	P	P		A		A		4.3.3(C)(3)
Kennel, outdoor	P							P		P		P	P	A				4.3.3(C)(4)
Veterinary clinic	P							P	P	P	P			A		A		4.3.3(C)(5)

BUSINESS

Eating establishments																		
Ice cream shop					S	S	S	P	P	P	P	P			A	A	A	
Restaurant, indoor seating only				S	S	S	P	P	P	P	P	P	P		A	A	A	A
Restaurant, with outdoor seating				S	S	S	P	P	P	P	P	S			A	A	A	4.3.4(A)(1)
Restaurant, with drive-through or drive-in service							P		P	S	S			A		A	4.3.4(A)(2)	

Specialty eating establishment							S	S	S	P	P	P	P	P			A	A	A	A		
Conference and training centers																						
Conference center		S					S	S		P	P	P	P	P		S	A		A	A	4.3.4(B)(1)	
Rural agricultural corporate retreat		P																				4.3.4(B)(2)
Industrial services																						
Building, heating, plumbing, or electrical contractors															P	P	P		A			
Electric motor repair																P						4.3.4(C)(1)
Fuel oil distributor																P						
General industrial service											P	P	P	P	P	P			A			
Heavy equipment sales, rental, or repair												P			P							4.3.4(C)(2)

Laundry, dry cleaning, and carpet cleaning facilities		P	P	P										A	4.3.4(C)(3)
Machine shop			S		P										4.3.4(C)(1)
Repair of scientific or professional instruments		S	S	P	P	P		A						A	
Tool repair			S	P	P	P									4.3.4(C)(1)
Manufacturing and production															
Asphalt/concrete batch plant								S							4.3.4(D)(1)
Manufacturing, heavy ¹								P							4.3.4(D)(1)
Manufacturing, light								P	P	P		A		A	
Medical marijuana processing															

Medical radioisotope laboratory											P									
Non-medical marijuana processing																				
Offices																				
Business services							P	P	P	P	P	P			A		A	A		
Financial services							P	P	P	P	P	P			A		A	A		
Professional services						S	P	P	P	P	P	P			A		A	A		
Radio and television broadcasting studio								P	P	P	P	P	P	P	A			A		
Sales								P	P	P	P				A		A	A		
Parking, commercial																				
Parking lot								P	P	P	P	P	P	P	A	A	A	A	4.3.4(E)(1)	
Parking structure								P	P	P	P	P	P	P	A	A	A	A	4.3.4(E)(2)	

	Recreation/entertainment, indoor																			
Banquet hall										P	P	P	P			P	A		A	4.3.4(F)(1)
Commercial recreation, indoor				S	S				P	P	P	P			P	P	A	A	A	
Internet Café/simulated gaming establishment																				
Neighborhood recreation center		S	S	S		P	P		P				P			P	A	A	A	
Private club or lodge with seating capacity of less than 300 in main activity area	P	S	S	S	P	P	P	S	S	P	P	P	P	P	P		A	A	A	
Private club or lodge, with seating capacity of 300 or greater in main activity area	P			S	S	S	S	S	S	P	P	P	P	P		A	A	A	A	
Theater									S	P	P	P	P	P		S	A		A	

	Recreation/entertainment, outdoor																				
Archery range		P												P				P			
Arena, amphitheater, auditorium, stadium		S											S	S	S		S	S	P	A	A
Commercial recreation, outdoor		S												P				P	A		A
Golf course, private		P	P	P	P	P	P	P	P					P	P				A	A	A
Retail sales and services																					
Auction house		P												P					A		4.3.4(G)
Bar, nightclub, or cocktail lounge													S	P	P	P			A	A	4.3.4(G)(1)
Convenience store								S	S		P	P	S	P	P	S			A	A	4.3.4(G)(2)
Department or discount store											P	P	P						A	A	4.3.4(G)

Drug store or pharmacy (stand alone)							P	P	P	P			A				4.3.4(G)(3)
Crematory	S							S		P	P				A	4.3.4(G)	
Entertainment establishment							P	P	P	P			A			4.3.4(G)	
Financial institution				S	S	P	P	P	P	P			A	A	A	A	4.3.4(G)(4)
Funeral home				S		P	P	P					A			4.3.4(G)	
General media store						P	P	P	P				A	A	A		4.3.4(G)
Liquor store						S	P	P	P				A		A		4.3.4(G)
Laundromat							P	P					A				4.3.4(G)(5)
Microbrewery							P	P	P	P			A		A		4.3.4(G)(11)
Non-medical marijuana dispensing																	
Pawn shop								P					A				4.3.4(G)(8)

Precious metals dealer										P				A				4.3.4(G)(9)
Personal services establishment				S	S		P	P	P	P	P		A		A		4.3.4(G)(6)	
Repair establishment						S	P	P	P				A				4.3.4(G)	
Sales establishment				S	S		S	P	P	P	P		A	A	A		4.3.4(G)	
Tattoo parlor/Body-piercing studio									P				A				4.3.4(G)(10)	
Large-scale retail establishments \geq 20,000 sf, but < 80,000 sf							P		P				A		A		4.3.4(G)(7)	
Large-scale retail establishments \geq 80,000 sf							S		S				A				4.3.4(G)(7)	
Self-service storage																		
All uses							P		P	S	P	P					4.3.4(H)	

	Sexually oriented business																			
	Sexually oriented cabaret																			4.3.4(l)
	Sexually oriented media store																			4.3.4(l)
	Sexually oriented motion picture theater																			4.3.4(l)
	Sex shop																			4.3.4(l)
	Vehicles, sales and services																			
	Automobile body shop																			4.3.4(j)(1)
	Automobile parts sales																			A
	Automobile rental and sales																			4.3.4(j)(2)
	Automobile repair and servicing																			4.3.4(j)(3)

Automobile service station		S	S	P	P		P	P	A		
Automobile service station with wash and detail					P				A		
Boat and marine rental and sales				P		P			A		4.3.4(J)(4)
Carwash or auto detailing					P				A		4.3.4(J)(5)
Gasoline sales		S	P	P	P		S	S	A	A	4.3.4(J)(6)
Recreational vehicle rental and sales					P			P	A		4.3.4(J)(2)
Taxicab service			P	P	P				A		
Tire sales and mounting			P		P				A		4.3.4(J)(7)
Towing service				P					A		4.3.4(J)(8)
Transmission or muffler shop				P					A		4.3.4(J)(7)

	Waste-related services																		
Energy recovery plant	S																		
Hazardous waste collection sites														P					
Incinerator	S													S					
Landfill	S													S	S				
Landspreading of wastes	S													S					
Recycling dropoff center													S	S	S	A	A	A	4.3.4(M)(1)
Recycling and salvage center	S													P					4.3.4(M)(2)
Salvage and junkyard														P					4.3.4(M)(3)
Tire disposal or recycling														S					4.3.4(M)(3)
Waste composting	S													P					

	Wholesale sales																		
	All uses																		
	<p>¹ This use type prohibits petroleum refining, rendering, mining and manufacture of chemicals, fertilizers, paint, turpentine, etc., but allows manufacture of automobiles and computers. See definitions for further details. Asphalt/concrete batch plants are considered a subuse type of manufacturing, heavy.</p>																		

(Ord. No. 09-29, § 3(4.1.1), 9-28-2009; Ord. No. 12-06, § 3, 1-23-2012; Ord. No. 13-06, § 3, 5-6-2013; Ord. No. 14-08, § 3(Exh. A), 9-8-14; Ord. No. 16-04, § 3(Exh. A), 4-11-2016; Ord. No. 18-08, § 3(Exh. A), 4-9-2018; Ord. No. 19-31, § 3(Exh. A), 7-22-2019; Ord. No. 22-01, § 3(Exh. A), 10-11-2021; Ord. No. 22-12, § 3(Exh. A), 5-23-2022; Ord. No. 23-01, 3(Exh. A), 10-10-2022)

Sec. 4.2. - Use classifications, use categories and use types.

4.2.1 *Generally.*

(A) *Purpose.*

- (1) *Use classifications.* Use classifications organize land uses and activities into general use categories and specific use types based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The use classifications provide a systematic basis for assigning present and future land uses into appropriate zone districts. Use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. There are four use classifications in the table of allowed uses: residential uses, public and institutional uses, agricultural uses and business uses.
- (2) *Use categories.* The use categories describe the major subgroups of the use classification, based on common characteristics (e.g., the residential use classification is divided into two major use categories: household living and group living).
- (3) *Use types.* The use categories are divided into specific use types. The specific use types are included in the respective use category. They identify the specific uses that are considered to fall within characteristics identified in the use category.

(B) *Structure of this section.*

- (1) *Generally.* This section identifies each of the four use classifications in the Table of Allowed Uses (Table 4.1-1), and includes a section under each use classification identifying each use category. There are characteristics and examples subsections under each use category. (Use types are defined in Article 10, Definitions.)
- (2)

Principal use characteristics and accessory uses. The characteristics subsection describes common characteristics of each use category. Principal uses are assigned to the use category that most closely describes the nature of the principal use. Also listed are examples of common accessory uses, which, unless otherwise stated in the LDRs, are allowed in conjunction with a principal use and are subject to the same standards as the principal use.

- (3) *Examples.* The examples subsection lists common examples of use types included in the respective use category. The names of these sample uses are generic. They are based on common meanings and not on what a specific use may call itself. For example, a use that calls itself wholesale sales, but sells mostly to consumers, is included in the retail sales and service category rather than the wholesale sales category. This is because the activity on the site matches the characteristics of the retail sales and service use category.
- (4) *Exceptions.* The exceptions subsection lists examples of use types that are similar to those in the respective use category, but are not classified within that use category. For example, preschools may be similar to educational facilities in use, but preschools are actually classified as day care uses for the purposes of these LDRs.
- (C) *Developments with multiple principal uses.* When all principal uses of a development fall within one use category, the entire development is assigned to that use category. A development that contains a coffee shop, bookstore, and bakery, for example, would be classified in the retail sales and service category because all of the development's principal uses are in that use category. When the principal uses of a development fall within different use categories, each principal use is classified in the applicable use category and each use is subject to applicable regulations within that category. Developments with multiple principal uses, such as shopping centers, shall incorporate only those uses allowed in the underlying zone district.
- (D) *Unlisted uses.*
- (1) *Procedure for approving unlisted uses.* Where a particular use type is not specifically listed in Table 4.1-1, Table of Allowed Uses, the LDR Administrator may permit the use type upon a finding the standards of Subsection 4.2.1(D)(2) of this section, Standards for approving unlisted uses, are met. The LDR Administrator shall give due consideration to the purpose and intent of these LDRs concerning the zone district involved, the character of the use specifically identified, and the character of the use in question.
- (2) *Standards for approving unlisted uses.* In order to determine the proposed use has an impact that is similar in nature, function, and duration to the other use types allowed in a specific zone district, the LDR Administrator shall assess all relevant characteristics of the proposed use, including, but not limited to, the following:
- (a) The volume and type of sales, retail, wholesale, etc.; size and type of items sold and nature of inventory on the premises;
 - (b) Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing;
 - (c) The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);

- (d) The type, size and nature of buildings and structures;
- (e) The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;
- (f) Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes and whether trip purposes can be shared by other use types on the site;
- (g) Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other use types;
- (h) The amount and nature of any nuisances generated on the premises, including, but not limited to, noise, smoke, odor, glare, vibration, radiation and fumes;
- (i) Any special public utility requirements for serving the proposed use type, including, but not limited to, water supply, waste water output, pretreatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities; and
- (j) The impact on adjacent lands created by the proposed use type, which should not be greater than that of other use types in the zone district.

(3) *Effects of finding by LDR Administrator.*

- (a) *Typical uses: added to LDRs.* In making the determination described in Subsection 4.2.1(D)(1) of this section, Procedure for approving unlisted uses, the LDR Administrator shall initiate an amendment to these LDRs (Section 2.4.1) if it is determined the particular use type is likely to be common or to recur frequently, or that omission of specific inclusion and reference in the Table of Allowed Uses (Table 4.1-1) is likely to lead to public uncertainty and confusion. Until final action is taken on a proposed amendment, the determination of the LDR Administrator shall be binding on all officers and departments of the City.
- (b) *Atypical uses: determination binding.* In making a determination whether to approve an unlisted use, the LDR Administrator's determination shall thereafter be binding on all officers and departments of the City, without further action or amendment of these LDRs, if the LDR Administrator finds the particular use type is of an unusual or transitory nature, or is unlikely to recur frequently. Determinations shall be recorded and maintained in the office of the LDR Administrator and shall be available for public inspection.

4.2.2 *Residential use classification.*

(A) *Household living.*

- (1) *Characteristics.* The household living use category is characterized by the residential occupancy of a dwelling unit by a household. Tenancy is arranged on a month-to-month or longer basis. Accessory uses commonly associated with household living are recreational activities, raising of pets, hobbies, and parking of the occupants' vehicles. Home occupations are accessory uses that are subject to additional regulations (See Section 4.4.4(C), Home occupations).
- (2) *Examples.* Example use types include single-family detached dwellings, cottage homes, single-family attached dwellings, two- to four-family dwellings, townhouses, multiple-family dwellings, mobile homes, mobile home parks, and other structures with self-contained dwelling units.

(3)

Exceptions. Lodging in a dwelling unit or where units are rented on a less than monthly basis is classified visitor accommodations.

(B) *Group living.*

- (1) *Characteristics.* The group living use category is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of household. The size of the group may be larger than the average size of a household. Tenancy is arranged on a monthly or longer basis. Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment. Common accessory uses include recreational facilities, dining facilities, and parking of vehicles for occupants and staff.
- (2) *Examples.* Example use types include community residential homes, group living facilities, and roominghouses.
- (3) *Exceptions.*
 - (a) Lodging where tenancy may be arranged for periods of less than 30 days is classified as visitor accommodations.
 - (b) Lodging where the residents meet the definition of household and where tenancy is arranged on a month-to-month basis or for a longer period is classified as household living.
 - (c) Most group living facilities are classified as group living. However, group living facilities where individual units meet the definition of a dwelling unit are classified as household living.

4.2.3 *Public and institutional use classification.*

(A) *Community services.*

- (1) *Characteristics.* The community services use category is characterized by use types of a public, nonprofit or charitable nature providing a local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Community centers or facilities that have membership provisions that are open to the general public to join at any time (for instance, any senior citizen could join a senior center) fall into the community services use category. The use type may provide special counseling, education, or training of a public, nonprofit, or charitable nature. Accessory uses may include offices; meeting, food preparation, parking, health and therapy areas; and athletic facilities.
- (2) *Examples.* Example use types include community centers, cultural facilities, libraries, senior centers and youth club facilities.
- (3) *Exceptions.* Parks are classified as parks and open areas.

(B) *Day care.*

- (1) *Characteristics.* The day care use category is characterized by use types that provide care, protection, and supervision for more than six children or adults on a regular basis away from their primary residence for less than 24 hours per day. Accessory uses include offices, recreation areas and parking.
- (2) *Examples.* Example use types include care centers, day care homes (up to and including six people), and preschools.
- (3)

Exceptions. Day care does not include public or private schools or facilities operated in connection with an employment use, shopping center or other principal use where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity.

(C) *Educational facilities.*

- (1) *Characteristics.* The education use category is characterized by use types that include public and private schools at the primary, elementary, middle, or high school level that provide State-mandated basic education. This use category also includes colleges, universities, and other institutions of higher learning that offer courses of general or specialized study leading to a degree. Colleges tend to be in campus-like settings or on multiple blocks. This use category also includes vocational schools. Accessory uses at schools include offices, play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care. Accessory uses at colleges or universities include offices, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities and support commercial.
- (2) *Examples.* Example use types include public and private secondary schools that provide State-mandated basic education, colleges or universities, and vocational schools.
- (3) *Exceptions.* Preschools are classified as day care uses.

(D) *Government facilities.*

- (1) *Characteristics.* The government facilities use category is characterized by use types that include post offices; detention centers; maintenance, storage and distribution facilities; and other offices and facilities for the operation of local, State or Federal government. Accessory uses include maintenance, storage and fueling facilities; satellite offices; and parking areas.
- (2) *Examples.* Example use types include post offices, government offices, and government maintenance, storage, and distribution facilities.
- (3) *Exceptions.*
 - (a) Passenger terminals for airports and surface transportation are classified as transportation.
 - (b) City, County or State parks are classified as parks and open space.
 - (c) Water, wastewater, gas, electric and other infrastructure services, whether public or private, are classified as utilities.
 - (d) Waste and recycling services are classified as waste-related services.

(E) *Health care facilities.*

- (1) *Characteristics.* The health care facilities use category is characterized by use types that include uses providing medical or surgical care to patients. Hospitals offer overnight care, while other medical facilities provide outpatient care only. Accessory uses include offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, and housing for staff or trainees.
- (2) *Examples.* Example use types include hospitals, medical and dental clinics, medical and dental labs, outpatient facilities, and blood collection facilities.
- (3)

Exceptions. Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified as institutions.

(F) *Institutions.*

- (1) *Characteristics.* The institutions use category is characterized by use types that provide a variety of facilities, including buildings that primarily provide meeting areas for religious activities; housing and care for the elderly or disabled; and housing related to treatment programs. Accessory uses include school facilities, meeting rooms, parking, and staff residences.
- (2) *Examples.* Example use types include religious institutions; nursing homes, assisted living facilities; residential programs for drug and alcohol treatment, and alternative or post incarceration facilities.
- (3) *Exceptions.* Group home facilities or residential programs where individual units meet the definition of a dwelling unit in Article 10, Definitions, are classified as household living.

(G) *Parks and open areas.*

- (1) *Characteristics.* The parks and open areas use category is characterized by use types that focus on natural areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures. Accessory uses may include clubhouses, maintenance facilities, concessions and parking.
- (2) *Examples.* Examples use types include parks, publicly-owned golf courses, public squares, plazas, recreational trails, botanical gardens; and cemeteries, columbaria, and mausoleums.
- (3) *Exceptions.* Privately owned golf courses are classified as outdoor recreation/entertainment.

(H) *Public safety.*

- (1) *Characteristics.* The public safety use category is characterized by use types that provide public safety services to the general public.
- (2) *Examples.* Example use types include fire and EMS facilities, police stations, and substations for fire and police. Accessory uses include offices, teaching facilities, meeting areas, lunch rooms and cafeterias, sleeping quarters, parking, and maintenance facilities.

(I) *Transportation.*

- (1) *Characteristics.* The transportation use category is characterized by use types that include facilities for the landing and takeoff of airplanes and helicopters, including loading and unloading areas. Aviation facilities may be improved or unimproved. This use category also includes passenger terminals for surface transportation. Accessory uses include freight handling areas, concessions, offices, parking, and maintenance and fueling facilities.
- (2) *Examples.* Example use types include airports, airport landing strips, helicopter landing facilities and bus and train passenger terminals.
- (3) *Exceptions.*
 - (a) Bus passenger stations for local service such as mass transit stops and park-and-ride facilities are classified as utilities.

- (b) Private helicopter landing facilities that are accessory to another use may be considered accessory uses to that use, subject to all the use specific standards for helicopter landing facilities.

(J) *Utilities.*

- (1) *Characteristics.* The utilities use category includes both major utilities, which are infrastructure services providing regional or communitywide service, and minor utilities, which are infrastructure services that need to be located in or near the neighborhood or use type where the service is provided. Wireless telecommunication towers also are a type of utility. Services may be publicly or privately provided. Accessory uses may include parking and control, offices, monitoring or data transmission equipment.

(2) *Examples.*

- (a) Examples of major utilities include water towers, waste treatment plants, potable water treatment plants, public potable water wellheads, solid waste facilities and electrical substations.
- (b) Examples of minor utilities include water and sewage pump stations, stormwater retention and detention facilities, telephone exchanges, and surface transportation stops.
- (c) Examples of wireless telecommunication towers (freestanding and roof-mounted) include facilities for transmitting wireless phones and pager services, and television and radio broadcasting equipment.

4.2.4 *Agriculture use classification.*

(A) *Agriculture.*

- (1) *Characteristics.* The agriculture use category is characterized by general agricultural activities, including agronomy, aquaculture, biotechnical agriculture (including education parks for biotechnical agriculture or a demonstration farm), fisheries, honey production, silviculture (including the harvesting of timber) and similar uses. Accessory uses may include offices, storage areas and repair facilities related to agriculture uses.

- (2) *Examples.* Examples of agriculture use types include agronomy, aquaculture, biotechnical, forestry, fisheries, apiculture, silviculture, and similar uses.

(B) *Animal husbandry.*

- (1) *Characteristics.* The animal husbandry use category is characterized by the commercial and noncommercial propagation, rearing, exercising, feeding, milking, housing, controlling, handling or general care of living animals.
- (2) *Examples.* Examples of animal husbandry use types include the raising and production of cattle (beef and dairy), pigs, mules, ducks, horses, goats, poultry and sheep.

(C) *Horticulture.*

- (1)

Characteristics. The horticulture use category includes the cultivation and production of orchard, garden, or nursery crops on a small or large scale, including the production of field grown crops, specialty crops, flowers, fruit, grapes, market gardening, nursery stock, nuts, ornamental plants, sod, vegetables and similar horticultural uses. Horticulture includes the cultivation of such produce by means of biotechnical or genetic engineering techniques.

(2) *Examples.* Examples of horticulture use types include the production of field grown crops like strawberries, tomatoes, beans, corn and the like; the cultivation of orchards, like pears and apples; the cultivation and growing of grapes; the cultivation and growing of flowers and ornamental plants; sod farming; and the cultivation of specialty crops, and similar uses.

(D) *Agriculture support and services directly related to ongoing agriculture, horticulture, and animal husbandry, on-site agriculture support (directly related).*

(1) *Characteristics.* The agriculture support (directly related) use category includes use types that provide support and services to agricultural, horticultural and animal husbandry activities, which are limited to and that operate in conjunction with and on the site of ongoing agricultural, horticultural or animal husbandry uses.

(2) *Examples.* Examples of agriculture support (directly related) use types include agricultural processing for on-site uses, agri-education, agri-entertainment, custom operators, direct-market businesses, for the sale of produce grown on site, equestrian facilities, farm-based tourism, farm co-ops, farm machinery repair, farm markets, farm produce stands, feedlots (for ongoing, on-site animal husbandry uses), nurseries (commercial and production), pet farms, sawmills and stables.

(E) *Agriculture support and services not directly related to ongoing agriculture, horticulture, and animal husbandry, on-site agriculture support (not directly related).*

(1) *Characteristics.* The agriculture support (not directly related) use category includes use types that provide support and services to off-site agricultural, horticultural and animal husbandry activities, and that are not directly related to ongoing agricultural, horticultural or animal husbandry uses.

(2) *Examples.* Examples of agriculture support (not directly related) use types include agricultural research facilities, animal care business, auction arenas for livestock, commercial nurseries, equestrian facilities, fairgrounds, farm machinery repair, farm machinery sales, rental and service, landscape services, and stables.

(F) *Animal sales, services and care.*

(1) *Characteristics.* The animal sales, services and care use category is characterized by uses related to the provision of medical services and treatment to animals, including veterinary services, animal hospitals and the boarding of animals related to the provision of these services.

(2) *Examples.* Examples of animal sales, services and care use types include animal shelters, animal grooming, kennels (outdoor and indoor), animal hospitals, and veterinary clinics.

4.2.5 *Business use classification.*

(A) *Eating establishments.*

(1)

Characteristics. The eating establishment use category is characterized by establishments that sell food for on- or off-premises consumption. Accessory uses may include bars or cocktail lounges associated with the eating establishment, decks and patios for outdoor seating, drive-through facilities, customer and employee parking areas, and valet parking facilities.

(2) *Examples.* Examples include restaurants, restaurants with drive-through or drive-in service, ice cream shops and specialty eating establishments.

(3) *Exceptions.* Bars, nightclubs or cocktail lounges are classified as retail sales.

(B) *Conference and training centers.*

(1) *Characteristics.* The conference and training center use category is characterized by facilities used for business or professional conferences, seminars and training programs, which may include accommodations for sleeping, eating and recreation.

(2) *Examples.* Example use types include conference centers and rural agricultural corporate retreats.

(C) *Industrial services.*

(1) *Characteristics.* The industrial services use category is characterized by businesses that are engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products or byproducts. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking, and storage.

(2) *Examples.* Example use types include machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; heavy equipment sales, rental, repair, or storage; heavy equipment servicing and repair; building, heating, plumbing or electrical contractors; fuel oil distributors; and laundry, dry cleaning and carpet cleaning plants.

(3) *Exceptions.* Contractors and others who perform services off site are included in the offices category, if major equipment and materials are not stored at the site and fabrication or similar work is not carried out at the site. If major equipment and materials are stored at the site, or fabrication or similar work is carried out on the site, then such uses are included in the warehouse and freight movement use category.

(D) *Manufacturing and production.*

(1) *Characteristics.* The manufacturing and production use category is characterized by firms involved in the manufacturing, processing, fabrication, packaging or assembly of goods. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Custom industry is included (i.e., establishments primarily engaged in the on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment). Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets and caretaker's quarters.

(a) *Heavy manufacturing.* Heavy manufacturing is the manufacture or compounding process of raw materials. These activities may involve outdoor operations as part of their manufacturing process.

(b) *Light manufacturing.* Light manufacturing is the mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor or vibration.

(2) *Examples.*

- (a) *Heavy manufacturing.* Example use types of heavy manufacturing include, but are not limited to, manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, Specifically prohibited are rendering, petroleum refining, asphalt/concrete plants, pulp and paper mills, mining, and the manufacture of chemicals, fertilizers, paint and turpentine.
- (b) *Light manufacturing.* Example use types of light manufacturing include production or repair of small machines or electronic parts and equipment; woodworking and cabinet building; publishing and lithography; computer design and development; communications equipment, precision items and other electrical items; research, development, and testing facilities and laboratories; apparel production; sign making, assembly of prefabricated parts, manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids, and surgical instruments; manufacture, processing, and packing of food products, cosmetics, and manufacturing of components, jewelry, clothing, trimming decorations and any similar item.

(3) *Exceptions.*

- (a) *Goods sold on site.* The manufacturing of goods to be sold primarily on site and to the general public is classified as retail sales and services.
- (b) *Goods from salvage materials.* The manufacturing and production of goods from salvage material is classified as waste-related services.
- (c) *Goods from composting organic materials.* The manufacturing and production of goods from composting organic material is classified as waste-related uses.

(E) *Offices.*

- (1) *Characteristics.* The office use category includes activities that are conducted in an office setting and that generally focus on business, professional, or financial services. Accessory uses may include cafeterias, parking or other amenities primarily for the use of employees in the firm or building.
- (2) *Examples.* Example use types include business services establishments; professional services establishments such as lawyers, accountants, engineers, or architects; financial businesses such as lenders, brokerage houses or real estate agents; data processing; sales offices; public utility offices; and TV and radio studios.
- (3) *Exceptions.*
 - (a) Offices that are part of and located with a principal use in another use category are considered accessory to the establishment's primary activity. Headquarters offices, when in conjunction with or adjacent to a principal use in another use category, are considered part of the other use category.
 - (b)

Contractors and others who perform services off site are included in the office category if equipment and materials are not stored outside and fabrication, services or similar work is not carried on at the site.

(c) Government offices are classified as government facilities.

(d) Medical and dental clinics, medical and dental labs, and blood-collection facilities are classified as health care facilities.

(F) *Parking, commercial.*

(1) *Characteristics.* The commercial parking use category is characterized by parking that is not accessory to a specific principal use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a commercial parking facility. Accessory uses may include small structures intended to shield parking attendants from the weather.

(2) *Examples.* Example use types include short- and long-term fee parking facilities (both lots and structures) and mixed parking facilities (partially accessory to a specific use, partially for rent to others).

(3) *Exceptions.*

(a) *Charge for parking for occasional events.* Parking facilities that are accessory to a principal use, but that charge the public to park for occasional events nearby, are not considered commercial parking use types.

(b) *Leasing parking facility to principal use not relevant.* Parking facilities that are accessory to a principal use are not considered commercial parking uses, even if the operator leases the facility to the principal use or charges a fee to the individuals who park in the facility.

(c) *Park-and-ride facilities.* Park-and-ride facilities are classified as utilities.

(d) *Sales or servicing of vehicles.* Sales or servicing of vehicles is classified as vehicle sales and services.

(G) *Recreation/entertainment, indoor.*

(1) *Characteristics.* The indoor recreation/entertainment use category includes privately owned uses that provide recreation or entertainment activities in an enclosed structure or structures. Accessory uses may include concessions, snack bars, parking and maintenance facilities.

(2) *Examples.*

(a) *Commercial recreation, indoor.* Examples include fitness centers, bowling alleys, dancehalls, skating rinks, indoor commercial swimming pools and racquet and tennis club facilities (indoor) and theaters.

(b) *Other examples.* Other examples include private clubs and neighborhood recreation or resource offices.

(3) *Exceptions.* Recreational facilities that are reserved for use by residents of particular residential developments and their guests are accessory to those residential use types.

(H) *Recreation/entertainment, outdoor.*

(1)

Characteristics. This outdoor recreation/entertainment use category includes large, generally commercial uses that provide continuous recreation or entertainment-oriented activities. They primarily take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting. Accessory uses may include restaurants, bars, concessions, parking and maintenance facilities.

(2) *Examples.*

- (a) *Commercial recreation, outdoor.* Examples include privately owned golf driving ranges, privately owned miniature golf facilities, privately owned outdoor commercial tourist attractions, and privately owned active sports facilities such as ballfields and basketball courts, racquet and tennis club facilities, and archery ranges.

(3) *Exceptions.*

- (a) Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the visitor accommodations or eating establishment categories, respectively.
- (b) Publicly owned golf courses are classified as parks and open areas.
- (c) Indoor continuous entertainment activities such as theaters, bowling alleys, game arcades, pool halls or dance halls are classified as indoor recreation/entertainment.

(I) *Retail sales and service.*

- (1) *Characteristics.* The retail sales and services use category is characterized by use types involved in the sale, lease, or rent of new or used products to the general public. They may also provide personal services or entertainment or provide product repair or services for consumer and business goods. Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale and parking.

(2) *Examples.* Example use types includes uses from the four following groups:

- (a) *Sales.* Stores selling, leasing, or renting consumer, home and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries and food sales, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printer materials, and stationery and videos.
- (b) *Personal service establishments.* Financial institutions, laundromats; laundry and dry cleaning dropoff establishments; photographic studios; mailing or packing service, photocopy and blueprint services; hair; tanning and personal care services; psychics and mediums; martial arts schools; dance or music classes; taxidermists; and mortuaries.
- (c) *Entertainment.* Indoor continuous entertainment activities such as game arcades, pool halls, indoor firing ranges, cinemas, concert halls and theaters.
- (d) *Repair.* Repair of TVs, bicycles, clocks, watches, shoes, guns, canvas products, appliances and office equipment; photo or laundry dropoff; tailor; locksmith; and upholsterer.

(3) *Exceptions.*

- (a) Laundry and dry cleaning plants are considered industrial services.
- (b) Building trade contractors with on-site storage that sell primarily to contractors and do not have a retail orientation are classified as warehouse and freight movement.
- (c) Repair and service of vehicles, motorcycles, and light and medium trucks is classified as vehicle sales and service.

(J) *Self-service storage.*

- (1) *Characteristics.* The self-service storage use category is characterized by uses that provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property. Accessory uses may include living quarters for a resident manager or security and leasing offices and outside storage of boats and campers. Use of the storage areas for sales, service, repair, or manufacturing operations is not considered accessory to the use. The rental of trucks or equipment is also not considered accessory to the use.
- (2) *Examples.* Example use types include facilities that provide individual storage areas for rent. These uses are also called mini-warehouses.
- (3) *Exceptions.* A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the warehouse and freight movement use category.

(K) *Sexually oriented businesses.*

- (1) *Characteristics.* The sexually oriented business use category is characterized by uses that sell or distribute material or provide activities with sexually explicit content, including the display of specified anatomical areas and/or specified sexual activities. While such uses are allowed to operate within the City, they may be required to be separated from other existing uses and designed to minimize impact and protect the health, safety and welfare of the residents of the City. No more than one sexually oriented business use may occupy a single building or lot, and such uses may not be accessory uses to another business. The sale of fuel, alcoholic beverages for off-site consumption, and shower or bath services is prohibited within a sexually oriented business.
- (2) *Examples.* Example use types include sexually oriented media stores (adult book stores), sex shops (sexual paraphernalia store), sexually oriented cabarets (strip clubs) and sexually oriented motion picture theatres.
- (3) *Exceptions.* A general media store meeting inventory and floor area limits are classified as retail sales and service.

(L) *Vehicle sales and service.*

- (1) *Characteristics.* The vehicle sales and service use category is characterized by the direct sales of and services of passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles. Accessory uses may include offices, sales of parts, and vehicle storage.
- (2) *Examples.* Examples include rental and sales of automobiles or recreational vehicles; auto repair and servicing; automobile wash and detail shops; full-service, mini-service, and self-service gas stations; transmission or muffler shops; towing service; tire sales and mounting; taxicab service; towing service; or truck or trailer rental.
- (3) *Exceptions.* Refueling facilities for vehicles that belong to a specific use (fleet vehicles) are considered accessory uses if they are located on the site of the

principal use.

(M) *Visitor accommodations.*

- (1) *Characteristics.* The visitor accommodation use category includes dwelling units arranged for short-term stays of less than 30 days for rent, lease, or interval occupancy. Accessory uses may include pools and other recreational facilities, limited storage, restaurants, bars, meeting facilities and offices.
- (2) *Examples.* Examples include campgrounds, hotels or motels, bed and breakfast inns, and bed and breakfasts.

(N) *Warehouse and freight movement.*

- (1) *Characteristics.* The warehouse and freight movement use category includes establishments that are involved in the storage or movement of goods for themselves or other firms or businesses. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Accessory uses include offices, truck fleet parking, and maintenance areas.
- (2) *Examples.* Example use types include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; and parcel services.
- (3) *Exceptions.*
 - (a) Contractor's offices that do not include storage yards are classified as offices.
 - (b) Use types that involve the transfer or storage of solid or liquid wastes are classified as waste-related services.

(O) *Waste-related services.*

- (1) *Characteristics.* The waste-related services use category includes use types that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the composting of organic material or processing of scrap or waste material. This use category also includes use types that receive hazardous wastes from others. Accessory uses may include recycling of materials, offices, and repackaging and transshipment of byproducts.
- (2) *Examples.* Example use types include recycling and salvage centers, land-spreading of waste, sanitary landfills, tire disposal or recycling, waste composting, incinerators, energy recovery plants, salvage yards and junkyards, hazardous waste collection sites; and recycling dropoff centers.
- (3) *Exceptions.* Waste treatment plants and potable water treatment plants are classified as utilities.

(P) *Wholesale sales.*

- (1) *Characteristics.* The wholesale sales use category includes firms involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or taking of orders and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on site or delivered to the customer. Accessory uses may include offices, product repair, warehouses, minor fabrication services and repackaging of goods.
- (2)

Examples. Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts and building hardware.

(3) *Exceptions.*

- (a) Firms that engage primarily in sales to the general public or on a membership basis are classified as retail sales and services.
- (b) Firms that are primarily storing goods with little on-site business activity are classified as warehouse and freight movement.

(Ord. No. 22-01, § 3(Exh. A), 10-11-2021; Ord. No. 22-12, § 3(Exh. A), 5-23-2022)

Sec. 4.3. - Use specific standards.

4.3.1 *Residential uses.*

(A) *Household living.*

- (1) *Mobile home park.* A mobile home park located in the RMH-P district shall comply with the following standards:
 - (a) *Site area.* Be a minimum of ten acres in area.
 - (b) *Minimum park width.* Be a minimum width of 400 feet.
 - (c) *Minimum park area.* Include a minimum of 5,000 square feet for each mobile home unit.
 - (d) *Setback from perimeter of park.* Set back all development a minimum of 35 feet from the perimeter of the park.
 - (e) *Streets and driveways.* Construct all streets and driveways using generally accepted engineering practices to allow proper drainage of the entire park, and safe and adequate access to each mobile home site.
 - (i) *Pavement width.* All streets shall have a minimum pavement width of 20 feet.
 - (ii) *Right-of-way width.* In cases where streets in a mobile home park are public, they shall be built to the standards for residential streets. (See Section 7.3.1, Streets.)
 - (f) *Setback from streets.* Set back all homes a minimum of 20 feet from all streets or access points, as measured from the right-of-way edge.
 - (g) *Streetlighting.* Light all streets or driveways at night with electric lights providing a minimum illumination of 0.2 footcandles.
 - (h) *Parking.* Not allow parking on any mobile home park access or circulation drive.
 - (i) *Active recreation area.* Provide a minimum of 15 percent of the gross land area for active recreation uses, which will be credited against the open space set-aside standards of Section 6.7, Open space standards.
 - (j) *Mobile home stands.* Locate each mobile home within the park on a stand that is:
 - (i) A minimum of 3,500 square feet in area.
 - (ii) A minimum of 40 feet in width, on average.

- (iii) Clearly defined by permanent markers that physically delineate its location within the park.
 - (iv) Designed so each mobile home will be adequately supported and anchored so as to comply with the State requirements for the anchoring of mobile homes.
 - (k) *Spacing between mobile home stands.* Space each mobile home stand a minimum of 20 feet apart.
 - (l) *Mobile home skirt.* Surround each mobile home with a skirt or apron that is placed between the bottom of the unit and the ground. (The skirt or apron shall be adequately maintained by the owner of the mobile home.)
 - (m) *State regulations.* Meet all applicable State laws and regulations.
 - (n) *Public water and wastewater.* Mobile home parks with densities over two dwellings per acre are required to be served by public water and wastewater systems.
- (2) *Manufactured home dwelling.* A manufactured home dwelling shall comply with the following standards:
- (a) *Permanent foundation and anchoring.* Be placed on a permanent foundation and anchoring, consistent with the requirement of State law and the F.A.C., as amended.
 - (b) *Permanently enclose underfloor.* Permanently enclose the underfloor area.
 - (c) *Remove transportation equipment.* Remove all transportation-related equipment.
 - (d) *Minimum width of unit.* Not be less than 20 feet in width.
 - (e) *Minimum roof pitch; minimum distance, eaves to ridge.* Design the pitch of the main roof to be not less than one foot of rise for each four feet of horizontal run and the minimum distance from eave to ridge to be one-half of the minimum horizontal dimension.
 - (f) *Roof materials.* Be constructed with roof material that is similar in texture, color and appearance to that of single-family detached dwellings in the surrounding area.
 - (g) *Roof overhang.* Have a roof overhang on all sides of at least six inches.
 - (h) *Exterior finish; light reflection.* Use materials for the exterior finish that is similar in texture, color and materials to detached single-family dwellings in the surrounding area in which it is located, and are applied in such a manner as to make the dwelling similar in appearance with surrounding single-family detached dwellings. (Reflection shall not be greater than from siding coated with clear, white, gloss exterior enamel.)
 - (i) *Single-family detached dwellings.* Shall comply with the orientation, building massing, building materials and architectural variability standards as per Subsection 4.3.1(A)(4) of this section.
- (3) *Multiple-family dwellings, single-family attached dwellings, townhomes, and two- to four-family dwellings.* Multiple-family dwellings, single-family attached dwellings, townhomes, and two- to four-family dwellings shall comply with the following standards:
- (a)

Permitted in the CI district as affordable housing. Single-family attached, townhouse, two- to four-family, or multiple-family dwelling units may be permitted within the CI zone district provided that 50 percent or more of the dwelling units are deed-restricted affordable housing for low-income residents.

- (b) *Orientation of buildings to street and open space.* To the maximum extent practicable, be oriented to the street or frame open space.
 - (c) *Building adjacent to single-family detached development.*
 - (i) Not allow the height of buildings located within 100 feet of land in a single-family residential district (RSF-1, RSF-3, RSF-4, and RSF-6) exceed two stories.
 - (ii) Not allow the height of buildings located within 100 feet of an existing single-family attached development to exceed two stories.
 - (d) *Design features on side facades adjacent to single-family districts or single-family detached development.* When located adjacent to single-family detached development or vacant land in a single-family residential district (RSF-1, RSF-3, RSF-4, and RSF-6), incorporate a minimum of two design features (e.g., bay windows with a minimum 12-inch projection, eaves with a minimum six-inch projection, or multiple windows with minimum four-inch trim) on adjacent side facades.
 - (e) *Off-street parking for multifamily uses, including townhouses.*
 - (i) Provide a minimum of 50 percent of off-street parking on the side or rear of the building.
 - (ii) Where off-street parking areas are located adjacent to a public right-of-way, screen them with a completely opaque vegetative screen, fence or wall, a minimum of three feet in height.
 - (f) *Garages with multifamily buildings.* Design garages with multifamily development, including townhouses, as side or rear entry, located on the side or rear of the building, except no side entry garage door shall face an adjacent single-family detached development, or vacant land in a single-family district (RSF-1, RSF-3, RSF-4, and RSF-6).
 - (g) *Garages with single-family attached, and two- to four-family dwellings.* In single-family attached, townhouses and two- to four-family development:
 - (i) Limit individual garage doors facing a street to no more than ten feet in width per door, with a maximum of two doors facing the street per dwelling, with a minimum separation of two feet between the doors.
 - (ii) Design detached garages so as to be located at least four feet behind the front facade of the principal structure. (For the purposes of measurement, the front facade will be the front facade plane that is furthest from the front lot line.)
 - (iii) Design attached garages to not extend beyond the front façade line of any living area. For purposes of this section, the front façade line of any living area means the closest façade located between the front property line and air conditioned space intended for non-automotive uses.
 - (h) *Landscaped buffer adjacent to single-family detached development.* Provide a landscaped buffer adjacent to existing single-family detached development a minimum of 15 feet in width along the yard which the single-family detached development abuts.
- (4) *Single-family detached dwellings.* Single-family detached dwellings shall comply with the following standards:

- (a) *Orientation.* Be oriented so the primary entrances face the street.
 - (b) *Building massing.* If 30 feet or more in width, incorporate wall off-sets, or articulations, with a minimum depth of two feet, so no single wall expanse exceeds 25 feet in length.
 - (c) *Building materials.* Not use metal siding and exposed smooth-finished concrete block for any building elevations.
 - (d) *Architectural variability in developments with eight or more units.* If part of a subdivision built after February 27, 2006, includes a minimum of four distinctly different house designs within any one phase and not develop the same house design more than once every four building lots on the same side of the street. For the purposes of this section, the term "distinctly different" means a home's elevation must differ in other homes' elevations in at least four of the following seven ways: at least a two-foot horizontal and/or vertical variation of the placement and/or size of all windows and doors on the front facade; the use of different surface materials; substantial variation in the location and/or proportion of garages and garage doors; variation in the width of the front facade by two feet or more; the location and proportion of front porches; substantial variations in rooflines, pitches, and/or the angle of roof runs; or the use of roof dormers. Mirror images of the same configuration do not meet the definition of distinctly different.
- (5) *Cottage neighborhood.* Cottage neighborhoods shall comply with the following standards:
- (a) *Quantity and size of cottage homes.*
 - (i) A minimum of 25 cottage homes and a maximum of 100 cottage homes are permitted within a cottage neighborhood.
 - (ii) The minimum square footage for cottage homes shall be 750 square feet. Cottage homes shall have a maximum gross floor area of 1,750 square feet with a maximum base floor (first floor) area of 1,000 square feet.
 - (b) *Community and accessory buildings.* One enclosed community building per neighborhood is allowed. Community buildings may contain a club house, a common dining area, kitchen, bathroom, laundry facility, one sleeping quarters for guests, storage, or similar uses. Additional accessory structures, such as arbors, gazebos, pergolas, fire pits, BBQ grills, pools, greenhouses, gardens boxes, garages, and other similar accessory structures, are permitted in addition to community buildings.
 - (c) *Maintenance of open space, common areas and utilities.* The joint use and maintenance of public open space, community facilities, private roads and drives, and all other commonly owned and operated property shall be managed and maintained through a homeowners' or property owners' association.
 - (d) *Common greens.* Each cottage neighborhood shall have one or more common greens. Common greens may be counted toward the open space required by Section 6.7 of these LDRs. Common greens shall be designed to meet the following:
 - (i) Common greens shall include at least 400 square feet per cottage home.
 - (ii) A minimum of four and a maximum of 12 cottage homes shall be clustered around a common green.
 - (iii) Common greens may include stormwater management facilities incorporating low impact development designs as long as a minimum of 400 square feet per cottage home remains usable for active or passive recreation during rain events.

- (iv) A minimum of 80% of the cottage homes within a cottage neighborhood shall be clustered around and shall directly front a common green.
- (v) Amenities such as those identified in Subsection 4.3.1(A)(5)(b), Common buildings, are allowed in common greens.
- (e) *Parking.* Parking may be provided in a common area (private street, parking lot, or garage), or on individual cottage home lots. All parking must meet the following standards:
 - (i) The minimum number of parking spaces required by Table 6.1-1 of these LDRs for cottage homes shall be provided; and,
 - (ii) All common parking areas and associated drive aisles shall be screened in accordance with Section 6.2 of these LDRs.
- (f) *Vehicle access.* Private roads, drives, or alleys within the cottage neighborhood that are connected to a public street and access either individual cottage homes or common parking lots are permitted. All private roads, drives, or alleys shall have a clear width of 20 feet with a 12-foot-wide minimum wearing surface.
- (g) *Pedestrian access.* A system of interior walkways shall be provided to interconnect the cottage homes, parking areas, common greens, and any sidewalks along the public street(s) bordering the cottage neighborhood. Interior walkways shall meet applicable ADA accessibility requirements.
- (h) *Requirements when adjacent to single-family detached development.* When located adjacent to single-family detached development in any zoning district or vacant land in a single-family residential district (RSF-1, RSF-3, RSF-4, and RSF-6), a cottage neighborhood shall:
 - (i) Provide a minimum Type D, 10 foot landscaped buffer along the yard which the single-family detached development or vacant land in a single-family residential district abuts; and,
 - (ii) Not locate any structures, including but not limited to cottage homes, community buildings, accessory structures, parking lots, waste receptacles, and other similar structures, within 100 feet of the boundary of the cottage neighborhood.
- (i) *Fencing.* Fencing within the cottage neighborhood used to delineate private yards, gardens, or other areas shall be limited to a maximum of 50 percent opacity and no greater than four feet in height. Solid fencing may be allowed along cottage neighborhood perimeter consistent with Section 6.3.3 of these LDRs.

(B) *Group living.*

- (1) *Co-housing.* Co-housing shall comply with the following standards:
 - (a) *Location of use.* Be located on the site of an active agriculture, horticulture, or animal husbandry operation.
 - (b) *Minimum dwelling unit size.* The minimum unit size be at least 600 square feet.
 - (c) *Maximum dwelling unit size.* The maximum unit size not exceed 2,500 square feet.
 - (d) *Residents.* Residents shall be employed on site at an ongoing agriculture, horticulture, or animal husbandry operation, during the occupancy of the unit.
 - (e) *Number of units.* The maximum number of units for sites 25 acres or less shall be six. An additional unit shall be allowed for each additional 15 acres, up to a total of 15 units.

- (f) *Sanitary and bathing facilities.* All dwellings shall have indoor sanitary and bathing facilities consistent with County and State regulations.
 - (g) *Portable dwellings screened from view.* If portable dwellings are used, they shall be screened from view from public roads and adjacent properties.
 - (h) *Located on internal site roads.* Units shall be located on internal site roads and shall not have direct access to public roads.
 - (i) *Setback from single-family dwellings.* Be set back 300 feet from single-family detached dwellings that are not part of the ongoing agriculture, horticulture, or animal husbandry operation with which it is associated.
 - (j) *Buffering or screening.* Be screened from public roads and adjacent single-family detached dwellings by solid, opaque fencing or landscaping.
 - (k) *Parking.* Provide at least one parking space for each unit.
- (2) *Community residential home.* A community residential home shall comply with the following standards:
- (a) *Generally.*
 - (i) Not be occupied by a person who would constitute a direct threat to the health and safety of other persons.
 - (ii) Not locate an off-street parking area closer than 25 feet to any boundary line of the property.
 - (iii) Comply with all relevant State laws and regulations.
 - (b) *Community residential home, six or fewer residents.* Community residential homes of six or fewer residents shall not be located within a radius of 1,000 feet of another such home with six or fewer residents (measured from the nearest point of the existing home to the nearest point of the proposed home).
 - (c) *Community residential home, seven to 14 residents.* Community residential home of seven to 14 residents shall not be located within a radius of:
 - (i) 1,200 feet of another existing community residential home of seven to 14 residents (measured from the nearest point of the existing home to the nearest point of the proposed home).
 - (ii) 500 feet of a single-family residential district (RSF-1, RSF-3, RSF-4, and RSF-6) or an existing single-family residential development (measured from the nearest point of the single-family residential district or development to the nearest point of the proposed community residential home).
- (3) *Dormitory.*
- (a) *Generally.* All dormitories, except those developed on the site of an ongoing agriculture, horticulture, or animal husbandry operation shall comply with the following standards:
 - (i) Accessory to a training facility located on the same site.
 - (ii) House only persons who are students at or employees of the training facility.
 - (b) *Dormitories part of agriculture, horticulture, or animal husbandry.* A dormitory developed on the site of an ongoing agriculture, horticulture, or animal husbandry operation shall comply with the following standards:
 - (i) Located on the site of an active agriculture, horticulture, or animal husbandry operation.

- (ii) Residents shall be employed on site at an ongoing agriculture, horticulture, or animal husbandry operation, during the occupancy of the unit.
- (iii) The maximum number of beds for sites 25 acres or less shall be ten. A bed shall be allowed for each additional five acres, up to a total of 25 beds.
- (iv) Have indoor sanitary and bathing facilities consistent with County and State regulations.
- (v) If portable buildings are used, screen them from view from public roads and adjacent properties.
- (vi) Located on internal site roads and not have direct access to public roads.
- (vii) Set back 300 feet from single-family detached dwellings that are not part of the ongoing agriculture, horticulture, or animal husbandry operation with which it is associated.
- (viii) Screened from public roads and adjacent single-family detached dwellings by solid, opaque fencing or landscaping.
- (ix) Provide one parking space for every three beds.

4.3.2 *Public and institutional use.*

(A) *Community services.* Community services uses shall comply with the following standards:

- (1) *Adjacent to single-family detached development or in residential district.*
 - (a) *Adjacent to single-family development.* If adjacent to existing single-family detached development, not allow the height of buildings exceed the greater of two stories or 130 percent of the maximum height allowed for single-family detached dwellings in the district.
 - (b) *In single-family residential districts.* If in single-family residential districts (RSF-1, RSF-3, RSF-4, and RSF-6), not allow the height of buildings exceed the greater of two stories or 130 percent of the maximum height allowed for single-family detached dwellings in the district.
- (2) *Landscaped buffer adjacent to single-family detached development.* If adjacent to existing single-family detached development, provide a landscaped buffer, a minimum of 15 feet in width along the yard which the single-family detached development abuts.
- (3) *Off-street parking.* Where off-street parking areas are located adjacent to a public right-of-way, such areas shall be screened using vegetative material and/or fencing a minimum of three feet in height in accordance with the standards in Section 6.2.2(D)(2), Parking lot landscaping.

(B) *Day care.*

- (1) *Child day care center; overnight child care center.* A child day care center and an overnight child care center shall comply with the following standards:
 - (a) *Outdoor play areas.* Outdoor play areas shall:
 - (i) Be a minimum of 75 square feet per child on the site.
 - (ii) Include a fence at least 3½ feet in height that completely encloses the play area, that is designed so all persons entering the play area are within direct line of sight from the child care center classroom areas.
 - (iii) Not locate play equipment within the required yard setback of any district.

- (iv) Be safely segregated from parking, loading, or service areas.
- (b) *Parking area, vehicular circulation, and drop off and pick up.* Design parking areas and vehicular circulation patterns to:
 - (i) Enhance the safety of children as they arrive at and leave the facility.
 - (ii) Include a designated pickup and delivery area, providing at a minimum one parking space per 20 children, that is located adjacent to the child care structure in such a way that children do not have to cross vehicular travel ways to enter or exit the center.
- (c) *Registration.* Register with the City.
- (d) *Outdoor play activities.* Not to conduct outdoor play activities after 8:00 p.m.
- (e) *Located on site of religious institution.* If located on the site of a religious institution, it is allowed as an accessory use only if designed and located to be compatible with adjacent land uses in terms of hours of operation, noise, lighting, parking, and similar considerations, and not cause significant traffic impacts.
- (f) *Adjacent to single-family development.* Where adjacent to existing single-family detached development, not allow the height of buildings exceed the greater of two stories or 180 percent of the average height of the adjacent single-family development.
- (g) *Comply with State and County requirements.* Comply with all relevant State and County requirements.
- (h) *Accessory uses.* May be permitted as an accessory to another retail sales and service, shopping center, or office use, but shall not exceed 20 percent of floor area of the principal use.

(C) *Educational facilities.*

- (1) *School and vocational school.* Any school or vocational school proposed within a residential district on a site or parcel of 20 acres in size or smaller shall comply with the following standards:
 - (a) *Special exception permit.* Obtain a special exception permit consistent with Section 2.4.4, Special exception permit.
 - (b) *Front arterial or collector road.* Be located on a parcel or site which fronts an arterial or collector road.
 - (c) *Temporary structures.* If temporary structures are needed for expansion space:
 - (i) Not be located between the principal building and any abutting right-of-way. (An exception to this standard shall be considered where there is no other practical alternative due to topography, presence of utilities or easements, existence of undisturbed open space and buffers, or other site features that are beyond the applicant's control.)
 - (ii) Provide screening material in the immediate vicinity of each temporary structure in order to screen the base of the structures from the view of other lands and public streets.
 - (d) *Adjacent to single-family development.*
 - (i)

Where adjacent to existing single-family detached development, not allow the height of buildings exceed the greater of two stories or 130 percent of the average height of adjacent single-family development.

(ii) Where adjacent to single-family districts (RSF-1, RSF-3, RSF-4, and RSF-6), not allow the height of buildings exceed the greater of two stories or 180 percent of the maximum height allowed for single-family detached development in the district.

(e) *Landscaped buffer.* Provide a landscaped buffer a minimum of 15 feet in width along the yards adjacent to the lands in residential districts or lands on which there is existing single-family detached development.

(D) *Government facilities.* Government facilities shall comply with the following standards:

(1) *Adjacent to single-family detached development or in residential district.*

(a) *Adjacent to single-family development.* If adjacent to existing single-family detached development, not allow the height of buildings exceed the greater of: two stories or 180 percent of the average height of the adjacent single-family detached development.

(b) *In single-family residential districts.* If in single-family residential districts (RSF-1, RSF-3, RSF-4, and RSF-6), not exceed the greater of: two stories or 130 percent of the maximum height allowed for single-family detached dwellings in the district.

(2) *Landscaped buffer adjacent to single-family detached development.* If adjacent to existing single-family detached development, provide a landscaped buffer, a minimum of 15 feet in width along the yard which the single-family detached development abuts.

(3) *Off-street parking.* Where off-street parking areas are located adjacent to a public right-of-way, such areas shall be screened using vegetative material and/or fencing a minimum of three feet in height in accordance with the standards in Section 6.2.2(D)(2), Parking lot landscaping. Any vegetative screening must grow to the minimum required height within three years of planting.

(E) *Health care facilities.*

(1) *Hospital.* A hospital shall comply with the following standards:

(a) *Area.* Be located on a lot a minimum of five acres in area.

(b) *Location on arterial or collector road.* Be located on an arterial or collector road.

(c) *Public water and wastewater.* Be served by a public water and wastewater system.

(d) *Setbacks.* Set back principal structures and uses from property boundaries a minimum of 100 feet.

(e) *Landscaped buffer when adjacent to single-family residential development.* Provide a landscaped buffer a minimum of 15 feet in width along the yards adjacent to lands in single-family residential districts (RSF-1, RSF-3, RSF-4, and RSF-6) or lands on which there is existing single-family detached development.

(2) *Outpatient facility.* An outpatient facility shall comply with the following standards:

(a)

Landscaped buffer when adjacent to single-family residential development. If located in other than in the RMF-8, RMF-15, and CN districts, provide a landscaped buffer a minimum of 15 feet in width along the yards adjacent to existing single-family detached development.

(b) *Located in RMF-8, RMF-15, and CN districts.* If located in the RMF-8, RMF-15, and CN districts:

- (i) Be small-scale (gross floor area not exceeding 2,500 square feet).
- (ii) Design visitor and patient activities associated with the use so as to be compatible with surrounding uses.
- (c) *Height requirement.* Shall limit height of the facility to two stories (30 feet) if it is located within 100 feet of lands used by or intended for single-family residential development.

(F) *Institutions.*

(1) *Auditoriums and convention centers.* Auditoriums and convention centers shall comply with the following standards:

- (a) *Distance from residential districts.* Be located a minimum of 500 feet from any residential district, measured from all property lines.
- (b) *Lot area.* Be no less than five acres in area.
- (c) *Frontage.* Provide a minimum of 600 feet of frontage on an arterial road, at the point of access.
- (d) *Vehicular access.* Locate all points of vehicular access from an arterial road. The access points shall be located to minimize vehicular traffic to and through local streets in residential areas.
- (e) *Safety fences.* Provide safety fences up to a height of six feet in accordance with the standards in Section 6.3, Fencing standards, directly adjacent to any residential uses.

(2) *Religious institution.* Religious institutions shall comply with the following standards:

- (a) *Child day care or overnight child care center.* Design any child day care center or overnight child care center associated with the religious institution to comply with the standards of Subsection 4.3.2(B)(1) of this section.
- (b) *Access.* Have access onto a public road.
- (c) *Landscaped buffer when adjacent to single-family residential development.* Provide a landscaped buffer a minimum of 15 feet in width along the yards adjacent to lands in single-family residential districts (RSF-1, RSF-3, RSF-4, and RSF-6) or lands on which there is existing single-family detached development.
- (d) *Modification of standards.* The LDR Administrator shall have the authority to grant modifications to any of the standards listed in this section in order to eliminate a substantial burden on religious exercise as guaranteed by the Federal Religious Land Use and Institutionalized Persons Act of 2000 (42 USC 2000), as amended. In granting such a modification, the LDR Administrator may require conditions consistent with the Federal Act that will secure substantially the objectives of the modified standard and that will substantially mitigate any potential adverse impact on the environment or on adjacent properties.

(e) Adjacent to single-family detached development or in residential district.

(i) *Adjacent to single-family development.* If adjacent to existing single-family detached development, not allow the height of buildings to exceed the greater of two stories or 180 percent of the average height of the adjacent single-family detached development.

(ii) *In single-family residential districts.* If in single-family residential districts (RSF-1, RSF-3, RSF-4, and RSF-6), not exceed the greater of two stories or 130 percent of the maximum height allowed for single-family detached dwellings in the district.

(G) *Public safety.* Public safety uses shall comply with the following standards:

(1) *Adjacent to single-family detached development or in residential district.*

(a) *Adjacent to single-family residential districts.* If adjacent to single-family residential districts (RSF-1, RSF-3, RSF-4, and RSF-6), not exceed the greater of two stories or 130 percent of the maximum height allowed for single-family detached dwellings in the district.

(b) *Adjacent to single-family development.* If adjacent to existing single-family detached development, not allow the height of buildings exceed the greater of two stories or 180 percent of the average height of the adjacent single-family development.

(2) *Landscaped buffer adjacent to single-family detached development.* If adjacent to existing single-family detached development, provide a landscaped buffer, a minimum of 15 feet in width along the yard which the single-family detached development abuts.

(H) *Transportation.*

(1) *Airplane landing strip.* An airplane landing strip shall comply with the following standards:

(a) *Intensity/character.*

(i) *Scope of aviation operations.*

a. For private aviation aircraft only, limited exclusively to the use of the landowner and guests; commercial operations, including flight training, ground school, and sales, are prohibited.

b. Prohibit instrument-guided flight to access the airplane landing strip.

c. Prohibit jet-propelled aircraft.

d. Prohibit takeoffs or landings between the hours of 8:30 p.m. and 6:00 a.m.

(ii) *Use of public rights-of-way prohibited.* Not allow aircraft to cross or use a public right-of-way or road to access a runway or landing strip.

(iii) *Accessory aircraft repairs and servicing.*

a. Allow typical accessory support services, including, but not limited to, fueling stations, fuel tanks, and storage.

b. Allow routine minor repairs and necessary maintenance of aircraft, provided all routine repairs and maintenance occur within an enclosed structure, such as a hangar.

(b)

Area. Be at least 25 acres in lot area, except that a use consisting only of a landing strip with no accessory structures or facilities other than a fueling station may be a minimum of 15 acres in area.

- (c) *Size.* Limit the size of structures that service the use (such as aircraft service buildings) to 15,000 square feet (all structures).
 - (d) *Setbacks.* Set back all aviation structures, storage areas, and the runway or landing strip from single-family dwelling lot lines, as follows:
 - (i) Structures or storage yards less than 2,500 square feet of gross floor area: 75 feet minimum from all lot lines; 125 feet from all residential lots.
 - (ii) Structures or storage yards greater than 2,500 and up to 15,000 square feet of gross floor area: 150-foot minimum from all lot lines; 200 feet from all residential lots.
 - (iii) Structures or storage yards over 15,000 square feet of gross floor area: 200 feet minimum from all lot lines; 250 feet from all residential lots.
 - (iv) Runway or landing strip: 450-foot minimum from all lot lines; 650 feet from all residential lots; or as required by Federal Aviation Administration, whichever is more restrictive.
 - (e) *Buffering/screening/landscaping.* Screen and landscape from the view of public roads and adjacent single-family development all tanks, storage yards, and vehicles and equipment stored outdoors.
- (2) *Helicopter landing facility.* A helicopter landing facility shall comply with the following standards:
- (a) *Land area.* Provide adequate land area for takeoff and landing to ensure public safety in accordance with FAA standards.
 - (b) *Located within 500 feet of existing residential use.* Where located within 500 feet of any existing residential development, provide an adequate buffer along the property line to ensure the helicopter landing facility does not adversely impact surrounding uses.
- (I) *Utilities.*
- (1) *Wireless communication tower and/or antenna, freestanding; wireless communication antenna, collocation on existing tower; wireless communication antenna, placement on existing business use or multifamily building.*
 - (a) *Purpose and intent.* The purpose of this subsection is to establish general standards for the siting of wireless communications towers and antennas. The intent is to:
 - (i) Protect residential areas and land uses from potential adverse impacts of towers and antennas.
 - (ii) Encourage the location of towers in nonresidential areas.
 - (iii) Minimize the total number of towers throughout the City.
 - (iv) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
 - (v) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
 - (vi) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.

- (vii) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
- (viii) Consider the public health and safety concerns of communication towers.
- (ix) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

(b) *Applicability.*

- (i) All new towers or antennas shall be subject to these standards, unless exempted pursuant to Subsection 4.3.2(l)(1)(c) of this section, Exemptions.
- (ii) For the purposes of this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.
- (iii) Towers and antennas may be considered either principal or accessory uses, based upon whether they should be characterized as an accessory or principal use pursuant to Section 4.4.4, Accessory uses and structures allowed.
- (iv) Lot area of the tower and antenna use shall be based on the dimensions of the entire lot, even though the tower or antenna may be located on leased parcels within the lot.
- (v) For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the City irrespective of City and County jurisdictional boundaries.
- (vi) Towers and antennas shall not be regulated or permitted as essential services, public utilities, or private utilities.

(c) *Exemptions.* The following towers and antenna are exempt from the standards of this section. They are subject to all other applicable procedures and standards of these LDRs:

- (i) A tower, or the installation of an antenna, that is under 70 feet in height and owned and operated by a Federally licensed amateur radio station operator or used exclusively for receive only antennas.
- (ii) Towers and antennas that have an approved building permit or special use permit prior to February 26, 2006, so long as the permit is current and has not expired. These towers and antennas shall:
 - a. Not be artificially lighted, unless required by the FAA or other applicable authority, and if lighting is required, the lighting alternatives and design shall cause the least disturbance to surrounding views; and
 - b. Demonstrate all franchises required by law for the construction and/or operation of a tower or antenna have been obtained.
- (d) Standards for new freestanding wireless communication towers and antenna in CSV, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8, RMF-15, RO, CN, CBD, GF, and Planned Development Districts.

New freestanding wireless communication towers and antenna in the CSV, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8, RMF-15, RO, CN, CBD, GF, and Planned Development Districts are special exception uses. In addition to the special exception standards, they shall comply with the following standards:

- (i) *Building Codes—Safety standards.*
 - a. Towers shall be designed to withstand a 100-m.p.h. wind loading.
 - b. The owner applicant shall provide assurance the structural integrity of towers and antenna will continue to comply with State and Federal standards, local building codes, and the applicable standards for towers published by the Electronic Industries Association, as amended. (If, upon inspection, it is determined a tower fails to comply with such standards and constitutes a danger to persons or property, the owner shall be notified he/she has 30 days to bring the tower into compliance. Failure to bring the tower into compliance within 30 days shall constitute grounds for the removal of the tower at the owner's expense.)
- (ii) *Franchises.* It shall be demonstrated all franchises required by law for the construction and/or operation of a tower or antenna have been obtained.
- (iii) *Aesthetics.*
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color to reduce visual obtrusiveness.
 - b. At a tower site, the design of buildings and related structures shall, to the maximum extent practicable, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or compatible with, the color of the structure on which it is located to make the antenna and related equipment as visually unobtrusive as possible.
- (iv) *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design shall result in the minimum disturbance to surrounding views.
- (v) *Signage.* No signs shall be placed on a tower or antenna, except those required by Federal or State law.
- (vi) *Setbacks.* Towers and guys and accessory buildings shall comply with the following setback standards. (The setback standard may be modified upon a finding a reduced tower setback is compatible with surrounding land uses.)
 - a. *Setback from adjoining lot line.* Towers shall be set back a distance equal to the height of the tower from any adjoining lot line.
 - b. *Guy and accessory buildings.* Guys and accessory buildings shall comply with the dimensional standards for the zone district established in article 5: Density, Intensity, and Dimensional Standards.
- (vii) *Separation.*

a. Towers shall comply with the off-site separation standards established in Table 4.3-1 Tower Off-Site Separation Standards.

Table 4.3-1. Tower Off-Site Separation Standards

Off-Site Use/Designated Area	Separation Distance
Existing single-family or two-family residential units [1]	200 feet separation or 300 percent of height of tower [2], whichever is greater
Vacant lands in the RSF-1, RSF-3, RSF-4 and RSF-6 districts which is either platted or has preliminary subdivision plan approval that has not expired	200 feet separation or 300 percent of height of tower [3], whichever is greater
Vacant unplatte lands in the RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8 and RMF-15 districts [3]	100 feet separation or 100 percent of height of tower [3], whichever is greater
Existing three-family, four-family and multifamily units	100 feet separation or 100 percent of height of tower [2], whichever is greater
Nonresidential uses or vacant lands in the A, OR, CN, CBD, CI, ILW, IG and GF districts	None; only setbacks apply
[1] Includes manufactured homes and mobile homes used for living.	
[2] Separation measured from base of tower to closest building setback line.	
[3] Separation measured from the zone district boundary to the base of the tower.	
[4] Includes any unplatte residential properties without a valid preliminary subdivision plan or valid development plan approval and any multifamily residential zoned land greater than duplex.	

- b. Separation distances between shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the base of the proposed tower.
- (viii) *Landscaping.* Towers shall comply with the following landscape standards.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower facility from existing residential development. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the tower facility.
 - b. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, towers sited on large, wooded lots, or with natural growth around the property perimeter may be a sufficient buffer.
- (ix) *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and equipped with an appropriate anti-climbing device.
- (x) *Buildings and support equipment.* Building and support equipment shall comply with the following standards.
 - a. *Antennas mounted on structures or rooftops.* For antenna mounted on structures or rooftops, the equipment cabinet or structure used in association with antenna shall:
 - i. Not contain more than 20 square feet of gross floor area or be more than five feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over 20 square feet of gross floor area or five feet in height, shall be located on the ground and shall not be located on the roof of the structure.
 - ii. 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 percent of the roof area.
 - iii. Comply with all applicable building codes.
 - b. *Antenna mounted on utility poles or light poles.* The equipment cabinet or structure used in association with antenna mounted on utility poles or light poles shall comply with the following:
 - i. In residential districts, the equipment cabinet or structure may be located: (a) in a front or side yard if the cabinet or structure is no greater than three feet in height or 30 square feet of gross floor area and located a minimum of 30 feet from all lot lines, or (b) in a rear yard if the cabinet or structure is no greater than six feet in height or 60 square feet in gross floor area. In either instance the cabinet/structure shall be screened by an evergreen hedge with a mature height of eight feet and a planted height of at least 36 inches.
 - ii. In business districts, the equipment cabinet or structure may be used if it is no greater than 10 feet in height or 250 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with a mature height of eight feet and a planted height of at least 36 inches.
 - iii.

In both residential and business districts, cabinets or structures shall be screened from view of all residential development that abuts or is directly across the street from the structure or cabinet. Screening shall be done by a solid fence eight feet in height, or an evergreen hedge with a mature height of eight feet and a planted height of 36 inches.

- c. *Antennas located on towers.* The related unmanned equipment structure associated with antenna located on towers shall not be more than 250 square feet of gross floor area or more than ten feet in height, and shall comply with the minimum yard standards of the zone district in which it is located (article 5: Density, Intensity, and Dimensional Standards).
- (xi) *Radiation reporting.* It shall be demonstrated the proposed tower or antenna complies with FCC non-ionizing radiation requirements.
- (xii) *Compliance with State or Federal laws and regulations.* Towers and antennas shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the State or Federal government that regulates towers and antennas. If such standards and regulations change, owners shall be responsible for bringing the towers and antennas into compliance with the changed standards and regulations within six months of their effective date, unless a different compliance schedule is mandated by the controlling regulations. (Failure to bring towers and antennas into compliance shall constitute grounds for removal of the tower or antenna, at the owner's expense.)
- (e) Standards for new freestanding wireless communication towers and antenna in A, CC, CBD, ILW, IG, and GF Districts. A new freestanding wireless communication tower and/or antenna is a permitted use in the A, CC, CBD, ILW, IG, and GF Districts. It shall be reviewed and approved as a site plan pursuant to Section 2.4.9, Minor site plans, site plans, and infrastructure plans, and shall comply with the following standards:
 - (i) *Tower can accommodate proposed users.* Be able to structurally accommodate the proposed number of users.
 - (ii) *Comply with specific general standards for new towers and antenna.* Be able to comply with section 4.3.2(l)(d), Standards for new freestanding wireless communication towers and antenna in CSV, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMHP, RMF-8, RMF-15, RO, CN, CBD, GF, and Planned Development Districts.
 - (iii) *Height.* Not exceed the following heights:
 - a. Seventy feet in height, for a single user.
 - b. Eighty-five feet in height; for two users.
 - c. One hundred feet in height for three or more users, plus ten over existing height-maximum tower heights will be 110 feet.
 - (iv) *Installation of cable microcell network.* Install a cable microcell network through the use of multiple low powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.
- (f) *Standards for collocation of antenna on existing wireless communication tower.* The collocation of antenna on existing wireless communication towers is encouraged by these LDRs, and is a permitted use in compliance with F.S. § 365.172(12)(a)(1). Antennas may be collocated on existing towers if they comply with the following standards:
 - (i) *Same tower type.* A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless a monopole is determined more appropriate at the specific location.

- (ii) *Only one tower remains.* If the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
 - (iii) *Height.* The existing tower may exceed by 30 feet the height of the existing tower's height, to accommodate the collocation of an additional antenna.
(This increase in height shall only occur one time per tower.)
 - (iv) *Separation.* The tower shall comply with the off-site separation standards in Table 4.3-1, Tower Off-Site Separation Standards, except the increase in height allowed pursuant to Subsection 4.3.2(l)(1)(f)(iii) of this section shall not require an additional distance separation. (A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances.)
 - (v) *Comply with specific general standards for new towers and antennas.* It complies with the following additional general standards for new towers and antenna: Subsections 4.3.2(l)(1)(d)(i)—(v) and (ix)—(xii) of this section.
 - (vi) *Accommodate additional loading.* It shall be demonstrated the tower can accept the additional loading created by the collocation.
- (g) *Standards for placement of antennas on existing structures.* An antenna may be attached to any business use or multifamily building with eight or more dwelling units as a permitted use if it is approved as a site plan pursuant to Section 2.4.9, Minor site plans, site plans, and infrastructure plans, and complies with the following standards:
- (i) *Height.* It does not extend more than 30 feet above the highest point of the building or structure.
 - (ii) *Comply with specific general standards for new towers and antenna.* It complies with the following general standards for new towers and antenna: Subsections 4.3.2(l)(1)(d)(i)—(v) and (ix)—(xii) of this section.
 - (iii) *Comply with FCC and FAA regulations.* It complies with all applicable FCC and FAA regulations.
 - (iv) *Comply with building codes.* It complies with all applicable building codes.
- (2) *Television or radio towers and antennas over 500 feet.* Television or radio towers or antennas which exceed 500 feet in height are not allowed in the CC district.
- (3) *Utility, major.* An electrical power facility, substation, or transmission station shall comply with the following standards:
- (a) *Location.* Be within reasonable proximity of the area to be served by the facility.
 - (b) *Setback.* Be set back a minimum of 100 feet from property lines and buffered to ensure it does not have an adverse impact on surrounding uses.
 - (c) *Compatibility.* Provide adequate setbacks, screening and buffering around the perimeter of the proposed use if it is deemed necessary to ensure land use compatibility with surrounding uses.
- (4) *Utility, minor.* A minor utility use shall comply with the following standards:
- (a) *Location.* Be located within reasonable proximity of the area to be served. Stormwater detention and retention facilities may be permitted by special exception permit on properties with less intense zoning district designations under common ownership, subject to the following requirements:
 - (i) The zoning designation of the location of the stormwater detention and retention facility allows minor utilities; and,

- (ii) The stormwater detention and retention facility meets the compatibility requirements as set forth in Subsection 4.3.2(l)(4)(b); and
 - (iii) The stormwater detention and retention facility provides an enhanced natural (e.g., increased topographic relief, vegetative diversity, etc.) or recreational (e.g., perimeter trail, boardwalk, interpretive kiosk, etc.) functional use.
- (b) *Compatibility.* Provide adequate setbacks, screening and buffering around the perimeter of the proposed use if it is deemed necessary to ensure land use compatibility with surrounding uses.
- (c) *Exemptions.* The provisions of this subsection shall not be applicable when the differing zoning designations are both classified as residential districts or are both classified as business districts, as categorized in Table 3.1-1, Establishment of Base Zone Districts. Stormwater detention and retention facilities serving residential districts shall be permitted in business districts without special exception if included as part of a master stormwater permit or common development plan.

4.3.3 Agricultural uses.

(A) *Agriculture support (directly related).*

(1) *Agriculture support (directly related).* Agriculture support (directly related) uses shall comply with the following standards:

(a) *Intensity/character.*

- (i) Be allowed only in direct association with an ongoing agriculture, horticulture, or animal husbandry use or activity.
- (ii) Be at least one acre in area.
- (iii) Operate only between the hours of 6:00 a.m. and 9:00 p.m.
- (iv) Be operated or maintained by the owner or occupant of the land upon which the primary associated agriculture, horticulture, or animal husbandry use is being conducted.

(b) *Location on site/dimensional standards.* Set back structures or storage yards from adjacent single-family residential development, as follows:

Table 4.3-2. Site/Dimensional Standards for Agricultural Uses

Lot Area (minimum)	Setback from Lot Lines (in feet)	Setback from Adjacent Single- Family Residential Lot Lines (in feet)
1 to 3 acres	50	75

>3 acres	75	100
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- (c) *Landscaped buffer adjacent to single-family residential development.* If adjacent to existing single-family development:
 - (i) Provide a landscaped buffer a minimum of 15 feet in width along the yard which the single-family development abuts.
 - (ii) Screen all storage yards from view of the single-family residential development.
- (d) *Access.* Not allow a vehicle access route to be located within a required landscaped buffer area, except where necessary to access the site.
- (e) *Hazardous chemicals, pesticide use.* Prohibit the use and application of herbicides, pesticides, and potentially hazardous chemicals and substances such as paints and solvents within any required single-family residential buffer.
- (f) *Parking.* Provide gravel or other dust-minimizing surfacing material for all parking areas within 300 feet of a residential development.
- (2) *Agricultural processing.* No building or structure used for the housing or processing of animals at an agricultural processing facility shall be located within 300 feet of any lot line.
- (3) *Direct market business, produce stands.* A direct market business or produce stand shall comply with the following standards:
 - (a) *Area.* Not to exceed 750 square feet in area.
 - (b) *Retail sales.* Be for the retail sale of agriculture and horticulture products.
 - (c) *Safe ingress and egress.* Be located and designed to provide customers safe ingress and egress from the road.
 - (d) *Height.* Not exceed 15 feet in height.
 - (e) *Off-street parking.* Provide safe and adequate off-street parking for customers.
- (4) *Nursery, commercial and production.* Any outside storage of equipment or vehicles associated with a nursery use (either commercial or production) shall be completely screened from off-site view by buildings and/or fencing with landscaping on the outside of the fencing.
- (5) *Sawmill.* Sawmills shall comply with the following standards:
 - (a) *Area.* Be located on a lot at least two acres in area.
 - (b) *Height.* Not to exceed 60 feet in height.
 - (c) *Access.* Have direct access onto a paved public road.
 - (d) *Safe ingress and egress.* Be located and designed to provide customers safe ingress and egress from the public road.
 - (e) *Off-street parking.* Provide safe and adequate off-street parking for customers.
 - (f) *Setback from residential development.* Be set back a minimum of 300 feet of existing residential development and residential zone districts.

(g) *Adjacent to residential development.* If adjacent to existing residential development or a residential zone district, provide a landscaped buffer, a minimum of 15 feet in width along the yard which the residential development or residential district abuts.

(6) *Stable.* No building used for housing animals at a stable shall be located within 300 feet of a lot line.

(B) *Agriculture support (not directly related).*

(1) *Agricultural research facility; central farm distribution.* Agricultural research facility and central farm distribution uses shall comply with the following standards:

(a) *Access.* Have direct access onto a collector or arterial road.

(b) *Adjacent to single-family detached development or in residential district.*

(i) If adjacent to existing single-family detached development, not allow the height of buildings exceed the greater of two stories or 180 percent of the average height of the adjacent single-family detached development.

(ii) If adjacent to single-family residential districts (RSF-1, RSF-3, RSF-4 and RSF-6), not exceed the greater of two stories or 130 percent of the maximum height allowed for single-family detached dwellings in the district.

(c) *Landscaped buffer adjacent to single-family detached development.* If adjacent to existing single-family detached development, provide a landscaped buffer, a minimum of 15 feet in width along the yard which the single-family detached development abuts.

(d) *Off-street parking.* Where off-street parking areas are located adjacent to a public right-of-way, screen them with a complete screen, a minimum of three feet in height, achieved within three years.

(2) *Equestrian facility.* No building used for housing of animals at an equestrian facility shall be located within 300 feet of any lot line.

(3) *Stable.* No building used for housing of animals at a stable shall be located within 50 feet of any lot line.

(4) *Landscape services.* Any outside storage of equipment of vehicles associated with a landscape services use shall be completely screened from off-site view by buildings and/or fencing with landscaping on the outside of the fencing.

(C) *Animal sales, service and care.*

(1) *Animal hospital.* Animal hospitals shall comply with the following standards:

(a) *Kennels.* Not maintain kennels outside the principal building except in the A district. Inside the district, no kennel shall be located within 125 feet of any lot line.

(b) *Adjacent to single-family detached development or in residential district.*

(i) If adjacent to single-family residential districts (RSF-1, RSF-3, RSF-4 and RSF-6), not exceed two stories or 130 percent of the maximum height allowed for single-family detached dwellings in the district.

(ii)

If adjacent to existing single-family detached development, not allow the height of buildings to exceed two stories or 180 percent of the average height of the adjacent single-family development.

- (c) *Open runs.* No open runs or pens used for housing of animals at an animal shelter shall be located within 125 feet of any lot line.
 - (d) *Landscaped buffer adjacent to single-family detached development.* If adjacent to existing single-family detached development, provide a landscaped buffer, a minimum of 15 feet in width along the yard which the single-family detached development abuts.
 - (e) *Incinerators.* Any incinerators included as an accessory use shall require approval through a special exception permit.
- (2) *Animal shelter.* Animal shelters shall comply with the following standards:
- (a) *Open runs and pens.* No open runs or pens used for housing of animals at an animal shelter shall be located within 125 feet of any lot line.
 - (b) *Incinerators.* Any incinerators included as an accessory use shall require approval through a special exception permit.
- (3) *Kennel/indoor.* An indoor kennel shall comply with the following standards:
- (a) *No unreasonable noise or odor.* Be sufficiently insulated so no unreasonable noise or odor can be detected off the premises.
 - (b) *Adjacent to single-family detached development or in residential district.*
 - (i) If adjacent to single-family residential districts (RSF-1, RSF-3, RSF-4 and RSF-6), not exceed two stories or 130 percent of the maximum height allowed for single-family detached dwellings in the district.
 - (ii) If adjacent to existing single-family detached development, not allow the height of buildings to exceed two stories or 180 percent of the average height of the adjacent single-family development.
 - (c) *Accessory uses.* Accessory uses to an indoor kennel may include retail sales, veterinary service, and grooming services, as long as the accessory uses do not include more than 25 percent of the total gross floor area.
- (4) *Kennel/outdoor.* An outdoor kennel shall comply with the following standards:
- (a) *Buildings and open runs.* Not locate open runs or buildings used for housing of animals within 125 feet of any lot line.
 - (b) *Adjacent to single-family detached development or in residential district.*
 - (i) If adjacent to single-family residential districts (RSF-1, RSF-3, RSF-4 and RSF-6), not exceed two stories or 130 percent of the maximum height allowed for single-family detached dwellings in the district.
 - (ii) If adjacent to existing single-family detached development, not allow the height of buildings to exceed two stories or 180 percent of the average height of the adjacent single-family development.
 - (c) *Landscaped buffer adjacent to single-family detached development.* If adjacent to existing single-family detached development, provide a landscaped buffer, a minimum of 15 feet in width along the yard which the single-family detached development abuts.
 - (d)

Accessory uses. Accessory uses to an outdoor kennel may include retail sales, veterinary service, and grooming services, as long as the accessory uses do not include more than 25 percent of the total gross floor area.

(5) *Veterinary clinic.* Veterinary clinics shall comply with the following standards:

- (a) *Kennels.* Maintain no kennels outside the principal building.
- (b) *Buildings.* Insulate and soundproof the structure in order to minimize all loud noises that might disturb persons on adjacent properties.
- (c) *No open runs.* Provide no open runs.
- (d) *Adjacent to single-family detached development or in residential district.*
 - (i) If adjacent to single-family residential districts (RSF-1, RSF-3, RSF-4 and RSF-6), not exceed two stories or 130 percent of the maximum height allowed for single-family detached dwellings in the district.
 - (ii) If adjacent to existing single-family detached development, not allow the height of buildings to exceed two stories or 180 percent of the average height of the adjacent single-family development.
- (e) *Landscaped buffer adjacent to single-family detached development.* If adjacent to existing single-family detached development, provide a landscaped buffer, a minimum of 15 feet in width along the yard which the single-family detached development abuts.

4.3.4 *Business uses.*

(A) *Eating establishments.*

- (1) *Restaurants with outdoor seating.* Restaurants having outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:
 - (a) *Setback from residential district.* The outdoor seating area shall be located no closer than 100 feet from any residential zone district or use.
 - (b) *No obstruction of pedestrian movement.* The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
 - (c) *Compatibility and compliance with building codes and State regulations.* In approving the use, the City may impose conditions relating to the location, configuration, and operational aspects of such outdoor seating area to ensure its compatibility with surrounding uses, its architectural consistency with the restaurant, and its compliance with the City's building codes and ordinances, including noise, and all relevant State laws and regulations.
 - (d) *Hours of operation.* For restaurants with outdoor seating adjacent to or within 100 feet of a residential district, the following hours of operation requirements for the outdoor seating areas shall apply:
 - (i) *Weeknights.* Service to outdoor seating areas will end at 10:00 p.m. on weeknights.
 - (ii) *Weekend nights.* Service to outdoor seating areas will end at 11:00 p.m. on weekend nights.
- (2) *Restaurants with drive-through or drive-in service.*

- (a) *Off-street parking and loading.* All principal uses with drive-through or drive-in services shall comply with all applicable standards governing vehicle-stacking areas and drive-in facilities set forth in Section 6.1, Off-street parking and loading standards.
- (b) *Transitional use area requirement.* When such use is located within a CI, ILW or IG district which adjoins a residential district, and is located upon the same frontage as the residential district without an intervening street, drive-throughs or drive-ins may not be closer than 100 feet from the residential district boundary line.

(B) *Conference and training centers.*

- (1) *Conference center.* Conference and training centers shall comply with the following standards:
 - (a) *Accessory uses.* Dining and banquet facilities may be provided for employees, trainees, and conferees. The banquet and dining facilities shall not exceed 20 percent of the total area of the principal permitted structure.
 - (b) *No products sold on site.* No products shall be sold on site, except those that are clearly incidental and integral to the training programs and seminars. (Shirts, glasses, golf equipment, pens and pencils, mugs and similar items with the logo of the company or firm conducting or sponsoring the conference or seminars are considered incidental and integral to the training program.)
 - (c) *On-site recreation facilities.* On-site recreation facilities may be used solely by employees, trainees or conferees.
- (2) *Rural agricultural corporate retreat.* A rural agricultural corporate retreat shall comply with the following standards:
 - (a) *Area.* Be at least 50 acres in area.
 - (b) *Setbacks.* Set back buildings, active recreational areas, parking, and lighted areas 100 feet from adjacent properties.
 - (c) *Open space.* Set aside a minimum of 60 percent of the site as open space. Recreational uses customarily incidental and subordinate to the use are permitted in the open space and may include: swimming pools and related facilities, boating facilities, tennis and other sports courts, equestrian facilities, picnic areas, golf courses and related facilities, ball fields, children's play equipment and passive recreation facilities. Driveways and parking areas supporting these recreational facilities may also be located in the open space.

(C) *Industrial services.*

- (1) *Electric motor repair; machine shop; tool repair.* Electric motor repair, machine shops, and tool repair uses shall comply with the following standards:
 - (a) *Minimum separation.* Lots shall be located at least 250 feet from schools, day care centers, residential uses or vacant land in residential zone districts.
 - (b) *Lighting.* Design and arrange all lights and lighting so no source of light shall be visible from any residential district.
 - (c) *Enclosure.* Repair and store all machines within an enclosed building. Temporary storage may be allowed in an outdoor storage area that shall be no larger than 25 percent of the total lot area. Such area shall be located to the rear of the principal structure and screened. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.
- (2) *Heavy equipment sales, rental or repair.* Heavy equipment sales, rental or repair shall comply with the following standards:

- (a) *Minimum separation.* Lots shall be located at least 250 feet from schools, day care centers, residential uses or vacant land in residential zone districts.
- (b) *Displays outside setbacks and buffers.* Not locate heavy equipment displays within a required setback or buffer.
- (c) *Vehicle display pad.* Not have more than one heavy equipment display area for every 100 feet of street frontage.
- (d) No display on top of building. Not place a heavy equipment display on top of a building.
- (e) *Landscaping.* Landscape front building and side yard setback areas in accordance with Section 6.2.2, Landscaping standards, to provide a buffer between the right-of-way and heavy equipment sales storage areas. Landscape side yard setbacks if the side yard abuts a public right-of-way.

(3) *Laundry, dry cleaning and carpet cleaning facilities.* Laundry, dry cleaning and carpet cleaning facilities shall comply with the following standards:

- (a) *Minimum separation.* Lots shall be located at least 250 feet from schools, day care centers, residential uses, or vacant land in residential zone districts.
- (b) *Enclosure.* Be within an enclosed building.
- (c) *Nonflammable enclosure.* Use nonflammable liquids in the cleaning processes, that emit no odor, fumes, or steam detectable to normal senses from off the premises.
- (d) *Hazardous materials.* Dispose of hazardous materials in accordance with State requirements.

(D) *Manufacturing and production.*

(1) *Manufacturing, heavy.* Heavy manufacturing uses shall comply with the following standards:

- (a) *Minimum separation.* Lots shall be located at least 500 feet from schools, day care centers, residential uses, or vacant land in residential zone districts.
- (b) *Screen outdoor storage areas.* Screen from view from the public right-of-way and all adjacent parcels except those on which heavy manufacturing uses are located, all outdoor storage areas with a solid (100 percent opaque) fence or masonry wall at least eight feet in height.
- (c) *On-site circulation.* Be designed to ensure proper functioning of the on-site transportation circulation system.
- (d) *Access.* Have direct access onto an arterial or major collector road.

(E) *Parking, commercial.*

(1) *Parking lot.* A commercial parking lot use shall comply with the following standards:

- (a) *Principal use.* Be the principal use. Parking spaces may be rented for parking. No other business of any kind shall be conducted on the lot, including repair service, washing, display or storage of vehicles or other goods.
- (b) *Location.* Not be contiguous to lands in the residential districts.
- (c) *Frontage limited.* Limit street frontage in the CC and CBD districts to 100 feet.

(2) *Parking structure.* A parking structure shall comply with the following standards:

- (a) *Be the principal use.* Parking spaces may be rented for parking. Retail businesses are allowed to be developed on the first floor.

- (b) *Not located contiguous to single-family district.* Not be located contiguous to single-family residential districts (RSF-1, RSF-4, RSF-3 and RSF-6), or existing single-family, attached or detached, development.
- (c) *Parking structure in CBD district.* A parking structure in the CBD district shall have retail or office uses on the bottom floor across the entire width of street frontage, except for required entrances and the attendant station.

(F) *Recreation/entertainment.*

- (1) *Banquet hall.* Banquet halls having outdoor seating (including but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:

- (a) Outdoor seating areas shall be located no closer than 100 feet from any residential zone district or use.
 - (b) For banquet halls with outdoor seating adjacent to or within 100 feet of a residential district, the following hours of operation requirements for the outdoor seating areas shall apply:
 - (i) *Weeknights.* Service to outdoor seating areas will end at 10:00 p.m. on weeknights.
 - (ii) *Weekend nights.* Service to outdoor seating areas will end at 11:00 p.m. on weekend nights.

- (2) *Arena, stadium.* All arena or stadium shall comply with the following standards:

- (a) *Minimum separation.* Lots shall be located at least 500 feet from day care centers, residential uses or vacant land in residential zone districts.
 - (b) *Lot area.* Be at least five acres in area.
 - (c) *Frontage.* Have a minimum of 600 feet of frontage on an arterial road, at the primary point of access.
 - (d) *Vehicular access.* Locate access points to minimize vehicular traffic to and through local streets in residential neighborhoods.
 - (e) *Safety fences.* Provide safety fences up to a height of six feet, if necessary to protect the general health, safety and welfare.

(G) *Retail sales and services.* Retail sales and services uses located in a single-tenant building of 20,000 square feet size or larger shall comply with the standards in Subsection 6.8.3, Design standards for business uses, as well as the standards in this section.

- (1) *Bar, nightclub or cocktail lounge.* A bar, nightclub or cocktail lounge shall comply with the following standards:

- (a) *General provisions.* Not have a drive-up window, or outdoor area for seating or live or recorded acoustic or amplified entertainment, unless such feature is approved as part of a special exception permit (Section 2.4.4, Special exception permit).
 - (b) *Outdoor activities as part of a special exception permit.* If have a drive-up window or other outdoor area, comply with the following standards:
 - (i) Locate the use no closer than 100 feet from any residential zone district or use.
 - (ii) Design and locate the drive-up window or outdoor area so as not to obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
 - (iii) Limit the serving of food and beverages to the outdoor area.

- (iv) In approving the use, the City may impose conditions relating to the location, configuration, and operational aspects of the drive-in window or outdoor area to ensure its compatibility with surrounding uses, its architectural consistency with the principal use, and its compliance with the City's building codes and all relevant State laws and regulations.
 - (c) *Transitional use area requirement.* When such use is located within a CI, ILW or IG district which adjoins a residential district, and is located upon the same frontage as the residential district without an intervening street, such uses and any associated accessory or incidental structures shall not be closer than 100 feet from the residential district boundary line.
- (2) *Convenience store.* Convenience stores shall comply with the following:
- (a) *Roofs.* A convenience store with and without gasoline sales shall have shingled, standing seam metal, or tiled roofs. Flat roofs are prohibited.
 - (b) *Architectural uniformity.* The exterior facades of all structures shall receive uniform architectural treatment, including masonry, stucco, and painting of surfaces. The colors selected shall be compatible with the character of the neighborhood.
- (3) *Drug store or pharmacy (stand alone).* Drive-through facilities associated with drug stores or pharmacies shall comply with the following standards:
- (a) *Canopies.* Have pitched roofs at an angle to closely approximate the roof found on the primary building.
 - (b) *Drive-through locations.* Be situated to the side and preferably to the rear of the primary building.
 - (c) *Prohibited.* Drive-through facilities shall not be located within the CC or CBD districts.
- (4) *Financial institution.* Drive-through facilities associated with a financial institution shall comply with the following standards:
- (a) *Canopies.* Have pitch-roofs at an angle to closely approximate the roof found on the primary building.
 - (b) *Drive-through locations.* Be situated to the side and preferably to the rear of the primary building.
 - (c) *Prohibited.* Drive-through facilities shall not be included with financial institutions located within the CC or CBD districts.
 - (d) *Stand-alone ATM.* In no instance shall a stand-alone ATM be considered a financial institution.
- (5) *Laundromat.*
- (a) *Windows and doors.* A laundromat shall be designed to ensure the windows and doors on the front and sides of the building shall be consistent and compatible in size and number with surrounding land uses.
 - (b) *Vents.* All vents shall be screened from off-site views, and shall be directed away from public areas.
- (6) *Personal service establishment.* Personal service establishments in the CN district shall comply with the following standards:
- (a) *Floor area.* Have floor areas of an individual establishment that do not exceed 3,000 square feet in area.
 - (b) *Enclosed building.* Conduct the business activities of the establishment within an enclosed building, with no more than 20 percent of the floor area devoted to storage.
 - (c) *Retail sales only.* Sell products only at retail.

- (7) *Large-scale retail establishments.* Large-scale retail establishments shall comply with the following standards:
- (a) *Design standards.* All large-scale retail establishments shall comply with the design standards in Subsection 6.8.3, Design standards for business uses.
 - (b) *Large-scale retail establishments of greater than or equal to 80,000 square feet of gross floor area.*
 - (i) Large-scale retail establishments of greater than or equal to 80,000 square feet of gross floor area shall be special exceptions in the CC and CI zoning districts.
 - (ii) As part of the application for special exception, a market and impact study shall be submitted. The study shall be based upon an agreed upon methodology utilizing commonly accepted data sources. Data are to be taken from professionally accepted existing sources, such as the United States Census, State Data Center, State University System of Florida, regional planning councils, water management districts, or existing technical studies. The data used shall be the best available existing data. Where data augmentation, updates, or special studies or surveys are deemed necessary by the City, appropriate methodologies shall be clearly described or referenced and shall meet professionally accepted standards for such methodologies.
 - (iii) At a minimum the market and impact study shall include:
 - a. Inventory of local retail base.
 - b. Assess market areas and market impacts.
 - c. Services and capital expenditures: Calculate cost of infrastructure and utilities (e.g., streets, sewer connections, water lines, etc.).
 - d. Traffic and other service impacts.
 - e. Calculate the cost of associated economic development incentives (i.e., tax credits).
 - f. Assess the impact of redevelopment zone tax-increment financing.
 - g. Inventory locations of competing retailers.
 - h. Assess impact on existing local retailers.

(8) *Pawn shop.* Pawn shops shall comply with the following standards:

- (a) When such use adjoins a residential zoning district or a residential use, principle and accessory buildings shall not be closer than 100 feet from the residential zoning district boundary line or the property line of the residential use.

(9) *Precious metals dealer.*

- (a) When such use adjoins a residential zoning district or a residential use, principle and accessory buildings shall not be closer than 100 feet from the residential zoning district boundary line or the property line of the residential use.

(10) *Tattoo parlor/body-piercing studio.*

- (a)

When such use adjoins a residential zoning district or a residential use, principle and accessory buildings shall not be closer than 100 feet from the residential zoning district boundary line or the property line of the residential use.

(11) *Microbreweries.* A microbrewery shall comply with the following standards:

- (a) *Minimum separation from residential uses and zoning.* The following separation shall be required between microbreweries and a residential zone district or use:
 - (i) *Microbreweries with indoor seating only.* Except for microbreweries within the Corporate Park (CP) zoning district, a microbrewery with indoor seating only shall be located no closer than 100 feet from any residential zone district or use. The distance shall be measured by extending a straight line from the center of the main entrance of the microbrewery to the nearest property line of the residential zone district or use.
 - (ii) *Microbreweries with outdoor seating.* Outdoor seating areas for a microbrewery shall be located no closer than 250 feet from any residential zone district or use. The distance shall be measured by extending a straight line from the nearest point of the outdoor seating area to the nearest property line of the residential zone district or use.
- (b) *Minimum separation from religious institutions.* Microbreweries (including any outdoor seating area) shall be located no closer than 450 feet from any religious institution, as defined by the City's Land Development Regulations. The distance shall be measured from the center of the main entrance of the microbrewery and follow the most direct public route of pedestrian travel to the main entrance of the religious institution.
- (c) *Hours of operation.* For microbreweries with indoor seating only, hours of operation for sale and on-premises consumption shall be consistent with Chapter 4, Section 4.2 of the Alachua Code of Ordinances. For microbreweries with outdoor seating, the following hours of operation requirements for the outdoor seating areas shall apply (the following hours of operation requirements do not apply to on-premise consumption for the indoor areas of the microbrewery):
 - (i) *Weeknights.* Service to outdoor seating areas will end at 10:00 p.m. on weeknights.
 - (ii) *Weekend nights.* Service to outdoor seating areas will end at 11:00 p.m. on weekend nights.
- (d) *No obstruction of pedestrian movement.* Any microbrewery outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use.
- (e) *Compatibility and compliance with building codes and state regulations.* In approving the use, the City may impose conditions relating to the location, configuration, and operational aspects of a microbrewery outdoor seating area to ensure its compatibility with surrounding uses and its compliance with the City's building codes and ordinances, including noise, and all relevant state laws and regulations.
- (f) *Applicability of residential protection standards.* As a condition of the approval of a microbrewery located within 500 feet of any residential district or adjacent to an existing residential single-family or two-family development, the City may impose conditions as set forth in Section 6.6.3, Residential protection standards, to reduce or minimize any potential adverse impacts on the residential land or development.

(H) *Self-service storage.* Self-service storage shall comply with the following standards:

- (1) *Commercial uses permitted on site.* The only commercial uses permitted on site shall be the rental of storage bays and the pickup and deposit of goods or property in dead storage. Storage bays shall not be used to manufacture, fabricate or process goods; service or repair vehicles, small engines or electrical equipment, or to conduct similar repair activities; conduct garage sales or retail sales of any kind; or conduct any other commercial, industrial, or recreational activity on the site.
- (2) *Security or caretaker's quarters.* One security or caretaker quarters may be developed on the site.
- (3) *Not legal address.* Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.
- (4) *Enclosed buildings.* Except as provided in this subsection, all property stored on the site shall be entirely within enclosed buildings.
- (5) *Open storage of recreational vehicles and dry storage of boats.* Open storage of recreational vehicles and dry storage of boats of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:
 - (a) *Designated area.* The storage shall occur only within a designated area. The designated area shall be clearly delineated.
 - (b) *Area.* The storage area shall not exceed 25 percent of the buildable area of the site.
 - (c) *Screening.* The storage area shall be entirely screened from view from adjacent residential areas and public roads by a building and/or solid fencing with landscaping on the outside of the fence.
 - (d) *Not within setbacks.* Storage shall not occur within the area set aside for minimum building setbacks.
 - (e) *No dry stacking of boats.* No dry stacking of boats shall be permitted on site.
 - (f) *No vehicle maintenance, washing or repair.* No vehicle maintenance, washing or repair shall be permitted.
- (6) *Lot area.* The minimum lot area shall be three acres.
- (7) *Minimum separation between building.* If separate buildings are constructed, there shall be a minimum separation of ten feet between buildings.
- (8) *Height.* With the exception of a structure used as a security or caretaker quarters, the maximum height of a self-service storage facility shall be 30 feet. In addition, a parapet wall shall be constructed to screen roof-mounted heating and air conditioning and other equipment, if any. The combined height of the building and the parapet wall shall not exceed 35 feet.
- (9) *On-site circulation.*
 - (a) *Interior parking.* Interior parking shall be provided in the form of aisleways adjacent to the storage bays. These aisleways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisleways shall be 21 feet if only one-way traffic is permitted, and 30 feet if two-way traffic is permitted.
 - (b) *Mark traffic flow patterns.* The one- or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist at a minimum of use of standard directional signage and painted lane markings with arrows.

- (c) *Circulation of vehicles and emergency equipment.* Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.
- (10) *Lighting.* Outdoor lighting shall be the minimum necessary to discourage vandalism and theft.
- (11) *Storage bay doors.* Storage bay doors shall not face any abutting property located in a residential district, nor shall they be visible from any public road, unless screened from view.
- (12) *Hours of operation.* Hours of public access to a self-storage use adjacent to existing residential development or a residential zone district shall be restricted to between 6:00 a.m. to 10:00 p.m.
- (13) *Architectural uniformity.* The exterior facades of all structures shall receive uniform architectural treatment, including masonry, stucco and painting of surfaces. The colors selected shall be compatible with the character of the neighborhood.
- (I) *Sexually oriented business.* In order to provide clear and consistent, content neutral regulations for sexually oriented businesses, the standards in this section govern the placement and design of sexually oriented businesses. These standards are based on the adverse secondary effects associated with sexually oriented businesses, while recognizing the rights of citizens to obtain constitutionally protected speech guaranteed under the First Amendment.
- (1) *General standards for all sexually oriented businesses.*
- (a) *Separation from school.*
- (i) All sexually oriented businesses shall comply with the provisions of F.S. § 847.0134, which prohibits the location of sexually oriented businesses displaying, selling, or distributing materials harmful to minors within 2,500 feet from a school, unless the City Commission approves the location under proceedings provided in F.S. § 166.041(3)(c). The City shall notify the principal of any school that could be affected by the exception request and the School Board of Alachua County whenever an exception to F.S. § 847.0134 is requested.
- (ii) The separation standards from a school shall apply only if one or more of the following applies:
- If it is a public school;
 - The school has been in operation at the same location for one year or more; or
 - The location at which the school is now operating is owned by the organization operating the school or its parent organization.
- (b) *When separation standards from religious institution apply.* The separation standard from a religious institution established in Subsections 4.3.4(I)(2)—(5) of this section shall apply only if one or more of the following applies:
- The religious institution has been in operation at the same location for one year or more; or
 - The location at which the religious institution is now operating is owned by the organization operating the religious institution or its parent religious organization.
- (c)

When separation standards from child day care center or day care home apply. The separation standard from a child day care center or child care home established in Subsections 4.3.4(l)(2)–(5) of this section shall apply only if one or more of the following applies:

- (i) The child day care center or day care home has been in operation at the same location for one year or more; or
- (ii) The location at which the child day care center or day care home is now operational is owned by the organization operating the facility.
- (d) *Measurement of separation distances.* For purposes of measuring the separation distances in this section, the measurement shall be made by extending a straight line from the main entrance of the building of the sexually oriented business to the front door of the main building occupied by any other sexually oriented business or to the nearest property line of any established religious institution, existing residential use, residential district, day care center, public park and playground, or school.
- (e) *Collocation standards for sexually oriented businesses.*
 - (i) No more than one sexually oriented business shall be located in a single building or on a single lot.
 - (ii) No sexually oriented business shall be established as an accessory use to another business.
 - (iii) No sexually oriented business shall offer any of the following products or services to customers, whether or not for a fee:
 - a. Gasoline or other fuels;
 - b. Showers or other baths;
 - c. Alcoholic beverages for off-premises consumption.
- (f) *Motion picture arcade booths.* Motion picture arcade booths either as an accessory use to any permitted sexually oriented business or a permitted principal use is prohibited.
- (g) *Massage parlors, lingerie modeling, nude photography studios.* Massage parlors, lingerie modeling establishments, and nude photography studios are prohibited. This provision shall not apply to massage therapists licensed and certified by the State of Florida.
- (h) *Sexually oriented media store, sex shop, sexually oriented cabaret, and sexually oriented motion picture in portion of CI district.*
 - (i) Because much of the existing development and uses that has occurred and has been approved in the CI district on the Official Zoning Atlas by 2003 is a result of actions by the Alachua County Board of County Commissioners before land was annexed to the City; and because such land is not entirely uniform in size, shape or character; and because of the high concentration of single-family residential subdivisions totaling approximately 1,600 home sites; and because these subdivisions enter/exit along this portion of US Highway 441; and because these entrances are located adjacent to the CC district; and because the entrances to these developments serve as school bus stops; the City Commission finds it necessary to impose additional limitations on the permitted principal uses in certain geographic portions of the CI district.
 - (ii)

For these reasons the following uses shall not be permitted in the CI district in the geographic area falling south of U.S. Highway 441 and between NW 77th Drive and NW 109th Lane in the City: sexually oriented media stores, sex shops, sexually oriented cabarets and sexually oriented motion picture theaters. All other principal permitted uses in the CI district are permitted in this area.

- (2) *Sexually oriented media store.* A sexually oriented media store shall be considered a sexually oriented business. A sexually oriented media store shall comply with the following standards:
 - (a) *Separation.* Not be located within 300 feet of religious institutions, parks and playgrounds, child day care centers, day care homes, existing residential uses, and residential districts.
 - (b) *Other sexually oriented business.* Not be located within 500 feet of any other sexually oriented business.
 - (c) *Window glazing.* Frost or opaque any window glazing in the store.
 - (d) *Signage.* Place a sign on the front door of the store prohibiting persons less than 18 years of age from entering the store.
 - (e) *Security lighting.* Install security lighting on the building and in the parking lot.
 - (f) *No display publicly.* Not display publicly sexually oriented media.
- (3) *Sex shop.* A sex shop shall be considered a sexually oriented business. A sex shop shall comply with the following standards:
 - (a) *Separation.* Not be located within 300 feet of religious institutions, public parks and playgrounds, child day care centers, day care homes, existing residential uses and residential districts.
 - (b) *Separation from other sexually oriented business.* Not be located within 500 feet of any other sexually oriented business.
 - (c) *Window glazing.* Frost or opaque any window glazing in the shop.
 - (d) *Signage.* Place a sign on the front door of the store prohibiting persons less than 18 years of age from entering the store.
 - (e) *Security lighting.* Install security lighting on the building and in the parking lot.
 - (f) *Sexually explicit media and toys.* Not display publicly explicit media and sexually oriented toys or novelties.
- (4) *Sexually oriented cabaret.* A sexually oriented cabaret shall be considered a sexually oriented business. A sexually oriented cabaret shall comply with the following standards:
 - (a) *Separation.* Not be located within 300 feet of religious institutions, public parks and playgrounds, child day care centers, day care homes, existing residential uses, and residential districts.
 - (b) *Separation from business that sells alcohol.* Not be located within 500 feet of a business that sells alcohol for on-premises consumption.
 - (c) *Separation from other sexually oriented business.* Not be located within 500 feet of any other sexually oriented business.
 - (d) *Window glazing.* Frost or opaque any window glazing.
 - (e) *Signage.* Place a sign on the front door of the store prohibiting persons less than 18 years of age from entering the cabaret.

- (f) *Security lighting.* Install security lighting on the building and in the parking lot.
 - (g) *Prohibit sale of alcohol.* Prohibit alcohol sales.
 - (h) *Separation between stage feature and customer seating/standing area.* Provide a minimum separation of two feet between any stage feature and the customer seating or standing area. Stages shall be a minimum of two feet high.
 - (i) *Prohibit booths or private dancing rooms.* Prohibit private booths or private dancing rooms.
 - (j) *Noise.* There shall be no projection of sound from the building housing the sexually oriented cabaret.
- (5) *Sexually oriented motion picture theater.* A sexually oriented motion picture theater shall be considered a sexually oriented business. A sexually oriented motion picture theater shall comply with the following standards:
- (a) *Separation.* Not be located within 300 feet of religious institutions, public parks and playgrounds, child day care centers, day care homes, existing residential uses and residential districts.
 - (b) *Separation from business that sells alcohol.* Not be located within 500 feet of a business that sells alcohol for on-premises consumption.
 - (c) *Separation from other sexually oriented business.* Not be located within 500 feet of any other sexually oriented business.
 - (d) *Minimum area.* Be a minimum area of 660 square feet.
 - (e) *Signage.* Place a sign on the front door prohibiting persons less than 18 years of age from entering the theater.
 - (f) *Security lighting.* Install security lighting on the building and in the parking lot.
 - (g) *Lighting within theater.* Maintain at least 0.5 footcandles of lighting within the theater at all times.
 - (h) *Monitoring of theater.* Maintain constant monitoring of activity within the theater by an employee on duty through electronic means or through a window or mirror providing visibility into the room from the manager's or cashier's work station.
 - (i) *Seating in theater.* Provide individual seating with arm chairs that do not rise, only.
 - (j) *Prohibit bench and sofa seating.* Prohibit bench seating and sofa seating.
 - (k) *Prohibit sale of alcohol.* Prohibit alcohol sales.
 - (l) *Separation between stage feature and customer seating/standing area.* Provide a minimum separation of two feet between any stage feature and the customer seating or standing area. Stages shall be a minimum of two feet high.
 - (m) *Noise.* There shall be no projection of sound from the building housing the sexually oriented motion picture.
- (l) *Vehicle sales and services.*
- (1) *Automobile body shop.* Automotive body shop uses shall comply with the following standards:
 - (a) *Minimum separation.* Lots shall be located at least 250 feet from schools, day care centers, residential uses or vacant land in residential zone districts.

- (b) *Parked vehicles.* Not park or store a vehicle as a source of parts, or park or store a vehicle for the purpose of sale or lease/rent.
 - (c) *Lighting.* Design and arrange all lights and lighting so no source of light shall be visible from any residential district.
 - (d) *Enclosure.* Repair and store all vehicles within an enclosed building. Temporary vehicle storage, of 30 days or less, may be allowed in an outdoor storage area that shall be no larger than 25 percent of the total lot area. Such areas shall be located to the rear of the principal structure and be screened. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.
 - (e) *Vehicle storage.* Not store or park a vehicle that has been repaired and is awaiting removal for more than 30 consecutive days. In cases where a vehicle has been abandoned by its lawful owner prior to or during the repair process, the vehicle may remain on site as long as is necessary after the 30-day period, provided the owner or operator of the establishment can demonstrate steps have been taken to remove the vehicle from the premises using the appropriate legal means.
- (2) *Automobile rental and sales; recreational vehicle rental and sales; truck or tractor rental or sales.* Automobile rental and sales and truck or tractor rental or sales shall comply with the following standards:
- (a) *Minimum separation.* Lots shall be located at least 250 feet from schools, day care centers, residential uses or vacant land in residential zone districts, unless one or more of the following standards are met:
 - (i) The proposed automobile rental and sales, recreational vehicle rental and sales, or truck or tractor rental or sales use is located with an intervening arterial or collector street between such use and schools, day care centers, residential uses or vacant land in residential zone districts. In such cases, the minimum separation shall be at least 100 feet, and an enhanced perimeter buffer shall be provided at a rate of 150 percent of the required trees and 150 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. The separation between the proposed automobile rental and sales, recreational vehicle rental and sales, or truck or tractor rental or sales use and schools, day care centers, residential uses or vacant land in residential zone districts may be further reduced to at least 50 feet when an enhanced perimeter buffer is provided at a rate of 200 percent of the required plantings and 200 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. All plantings shall be spaced to create a visual separation between the proposed automobile rental and sales, recreational vehicle rental and sales, or truck or tractor rental or sales use and schools, day care centers, residential uses, or vacant land in a residential zone district and to ensure adequate area for full growth of planted trees.
 - (ii) The proposed automobile rental and sales, recreational vehicle rental and sales, or truck or tractor rental or sales use has frontage on US Highway 441. In such cases, the minimum separation shall be at least 100 feet, and an enhanced perimeter buffer shall be provided at a rate of 150 percent of the required trees and 150 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. The separation between the proposed automobile rental and sales, recreational vehicle rental and sales, or truck or tractor rental or sales use and schools, day care centers, residential uses or vacant land in residential zone districts may be further reduced to at least 50 feet when an enhanced perimeter buffer is provided at a rate of 200 percent of the required plantings and 200 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. All

plantings shall be spaced to create a visual separation between the proposed automobile rental and sales, recreational vehicle rental and sales, or truck or tractor rental or sales use and schools, day care centers, residential uses, or vacant land in a residential zone district and to ensure adequate area for full growth of planted trees.

The separation distance shall be measured by extending a straight line from the nearest property line of the lot upon which the proposed automobile rental and sales, recreational vehicle rental and sales, or truck or tractor rental or sales use is located to the nearest property line of the school, day care center, residential use, or vacant land in a residential zone district.

- (b) *Displays outside setbacks and buffers.* Not locate vehicle or equipment displays within a required setback or buffer.
 - (c) *Landscape.* Landscape front building and side yard setback areas in accordance with Section 6.2.2, Landscaping standards, to provide a buffer between the right-of-way and heavy equipment sales storage areas. Landscape side yard setbacks if the side yard abuts a public right-of-way.
 - (d) *Vehicle display pad.* Not have more than one vehicle display pad for every 100 feet of street frontage. The vehicle display pad may be elevated up to two feet above adjacent displays or grade.
 - (e) *No display on top of building.* There shall be no vehicle display on top of a building.
 - (f) *Vehicle display pad.* Have no racks that tilt vehicles in any way to show the underside, unless they are located inside a show room.
 - (g) *Other materials for sale.* Display no other materials for sale between the principal structure and the street.
 - (h) *Testing.* Not test vehicles on residential streets.
- (3) *Automobile repair and servicing.* Automotive repair and servicing shall comply with the following standards:
- (a) *Minimum separation.* Separation distance shall be measured from lot line to lot line. Lots shall be located at least 250 feet from schools, day care centers, residential uses, or vacant land in residential zone districts, unless one of the following conditions is met:
 - (i) The proposed automobile repair and servicing use is located with an intervening arterial or collector street between such use and schools, day care centers, residential uses or vacant land in residential zone districts. In such cases, the minimum separation shall be at least 100 feet, and an enhanced perimeter buffer shall be provided at a rate of 300 percent of the required trees and 200 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2, in addition to a minimum six-foot opaque fence or wall. All plantings and screening shall be spaced to create a visual separation between the proposed automobile repair and servicing use and schools, day care centers, residential uses, or vacant land in a residential zone district and to ensure adequate area for full growth of planted trees.
 - (ii) The proposed automobile repair and servicing use has frontage on US Highway 441. In such cases, the minimum separation shall be at least 100 feet, and an enhanced perimeter buffer shall be provided at a rate of 300 percent of the required trees and 200 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2, in addition to a minimum six-foot opaque fence or wall. All plantings and screening shall be spaced to create a visual separation between the proposed automobile repair and servicing use and schools, day care centers, residential uses, or vacant land in a residential zone district and to ensure adequate area for full growth of planted trees.

The separation distance shall be measured by extending a straight line from the nearest property line of the lot upon which the proposed automobile repair and servicing use is located to the nearest property line of the school, day care center, residential use, or vacant land in a residential zone district.

- (b) *Lot dimensions and area.*
 - (i) If located on a corner lot, have a minimum of 150 feet of frontage on each street side, and a minimum area of 20,000 square feet.
 - (ii) In all other instances, have a minimum width of 150 feet and a minimum area of 15,000 square feet.
 - (c) *On-site circulation.* Be designed to ensure proper functioning of the site as related to vehicle stacking, circulation and turning movements.
 - (d) *Ingress/egress.*
 - (i) Have no more than two driveways or other methods of ingress or egress located at least 150 feet apart.
 - (ii) Methods of ingress/egress shall:
 - a. Not exceed 40 feet in width, exclusive of transitions.
 - b. Not be located closer than 15 feet to any right-of-way lines of any intersection.
 - c. Not be located closer than 15 feet to any other property line.
 - (e) *Enclosure.* Repair and store all vehicles within an enclosed building. Temporary vehicle storage may be allowed in an outdoor storage area that shall be no larger than 25 percent of the total lot area. Such areas shall be located to the rear of the principal structure and be screened from off-site views. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.
 - (f) *Public address systems.* Have no outdoor speaker or public address system which is audible from single-family lands.
 - (g) *Trash storage.* Provide adequate, enclosed trash storage facilities on the site.
 - (h) *Testing.* Not test vehicles on residential streets.
 - (i) *Parked vehicles.* Not park or store a vehicle as a source of parts, or park or store a vehicle for the purpose of sale or lease/rent.
 - (j) *Vehicle storage.* Not store or park a vehicle that has been repaired and is awaiting removal for more than 30 consecutive days. In cases where a vehicle has been abandoned by its lawful owner prior to or during the repair process, the vehicle may remain on site as long as is necessary after the 30 day period, provided the owner or operator of the establishment can demonstrate steps have been taken to remove the vehicle from the premises using the appropriate legal means.
 - (k) *Service bay orientation.* Service bay doors shall not be oriented toward any adjacent uses where the minimum separation requirements apply in [Subsection] (a) above.
- (4) *Boat and marine rental and sales.* Boat and marine rental and sales shall comply with the following standards:
- (a)

Minimum separation. Lots shall be located at least 250 feet from schools, day care centers, residential uses or vacant land in residential zone districts, unless one or more of the following standards are met:

- (i) The proposed boat and marine rental and sales use is located with an intervening arterial or collector street between such use and schools, day care centers, residential uses or vacant land in residential zone districts. In such cases, the minimum separation shall be at least 100 feet, and an enhanced perimeter buffer shall be provided at a rate of 150 percent of the required trees and 150 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. The separation between the proposed boat and marine rental and sales use and schools, day care centers, residential uses or vacant land in residential zone districts may be further reduced to at least 50 feet when an enhanced perimeter buffer is provided at a rate of 200 percent of the required plantings and 200 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. All plantings shall be spaced to create a visual separation between the proposed boat and marine rental and sales use and schools, day care centers, residential uses, or vacant land in a residential zone district and to ensure adequate area for full growth of planted trees.
- (ii) The proposed boat and marine rental and sales use has frontage on US Highway 441. In such cases, the minimum separation shall be at least 100 feet, and an enhanced perimeter buffer shall be provided at a rate of 150 percent of the required trees and 150 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. The separation between the proposed boat and marine rental and sales use and schools, day care centers, residential uses or vacant land in residential zone districts may be further reduced to at least 50 feet when an enhanced perimeter buffer is provided at a rate of 200 percent of the required plantings and 200 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. All plantings shall be spaced to create a visual separation between the proposed boat and marine rental and sales use and schools, day care centers, residential uses, or vacant land in a residential zone district and to ensure adequate area for full growth of planted trees.

The separation distance shall be measured by extending a straight line from the nearest property line of the lot upon which the proposed boat and marine rental and sales use is located to the nearest property line of the school, day care center, residential use, or vacant land in a residential zone district.

- (b) *Displays outside setbacks and buffers.* Not locate boat and marine equipment displays within a required setback or buffer.
 - (c) *Landscape.* Landscape front building and side yard setback areas in accordance with Section 6.2.2, Landscaping standards, to provide a buffer between the right-of-way and heavy equipment sales storage areas. Landscape side yard setbacks if the side yard abuts a public right-of-way.
 - (d) *Vehicle display pad.* Not have more than one boat and marine display pad for every 100 feet of street frontage. The pad may be elevated up to two feet above adjacent displays or grade.
 - (e) *Other materials for sale.* Not display other materials for sale between the principal structure and the street.
- (5) *Carwash or auto detailing.* Carwashes or auto detailing shall comply with the following standards:
- (a) *Minimum separation.* Lots shall be located at least 250 feet from schools, day care centers, residential uses, or vacant land in residential zone districts.
 - (b) *On-site circulation.* Be designed to ensure proper functioning of the site as related to vehicle stacking, circulation and turning movements.

- (c) *Trash storage.* Provide adequate, enclosed trash storage facilities on the site.
 - (d) *Automatic carwash with automotive service station.* An automatic carwash shall be considered an accessory use to a gasoline sales use (full-service, mini-service or self-service) when it is located on the same lot. The automatic carwash shall be governed by the use and dimensional standards applicable to the gas sales use.
 - (e) *Transitional use area requirement.* When such use is located within a CI, ILW or IG district which adjoins a residential district, and is located upon the same frontage as the residential district without an intervening street, such uses may not be closer than 100 feet from the residential district boundary line.
- (6) *Gasoline sales (automobile service station, mini-service and self-service).* Gasoline sales (full-service, mini-service and self-service) shall comply with the following standards:
- (a) *Minimum separation.* Lots shall be located at least 250 feet from schools, day care centers, residential uses or vacant land in residential zone districts, unless one or more of the following standards are met:
 - (i) The proposed gasoline sales use is located with an intervening arterial or collector street between such use and schools, day care centers, residential uses or vacant land in residential zone districts. In such cases, the minimum separation shall be at least 100 feet, and an enhanced perimeter buffer shall be provided at a rate of 150 percent of the required trees and 150 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. The separation between the proposed gasoline sales use and schools, day care centers, residential uses or vacant land in residential zone districts may be further reduced to at least 50 feet when an enhanced perimeter buffer is provided at a rate of 200 percent of the required plantings and 200 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. All plantings shall be spaced to create a visual separation between the proposed gasoline sales use and schools, day care centers, residential uses, or vacant land in a residential zone district and to ensure adequate area for full growth of planted trees.
 - (ii) The proposed gasoline sales use has frontage on US Highway 441. In such cases, the minimum separation shall be at least 100 feet, and an enhanced perimeter buffer shall be provided at a rate of 150 percent of the required trees and 150 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. The separation between the proposed gasoline sales use and schools, day care centers, residential uses or vacant land in residential zone districts may be further reduced to at least 50 feet when an enhanced perimeter buffer is provided at a rate of 200 percent of the required plantings and 200 percent of the required width of a Type D perimeter buffer as set forth in Table 6.2-2. All plantings shall be spaced to create a visual separation between the proposed gasoline sales use and schools, day care centers, residential uses, or vacant land in a residential zone district and to ensure adequate area for full growth of planted trees.

The separation distance shall be measured by extending a straight line from the nearest property line of the lot upon which the proposed gasoline sales use is located to the nearest property line of the school, day care center, residential use, or vacant land in a residential zone district.

- (b) *Lot dimensions and area.*

- (i) If located on a corner lot, have a minimum of 150 feet of frontage on each street side, and a minimum area of 20,000 square feet.
 - (ii) In all other instances, have a minimum width of 150 feet and a minimum area of 15,000 square feet.
 - (c) *Methods of ingress/egress.*
 - (i) Have no more than two driveways or other methods of ingress or egress located at least 150 feet apart.
 - (ii) Methods of ingress/egress shall:
 - a. Not exceed 40 feet in width, exclusive of transitions.
 - b. Not be located closer than 15 feet to any right-of-way lines of any intersection.
 - c. Not be located closer than 15 feet to any other property line.
 - (d) *Location of gasoline pumps.* Locate no gasoline pump within 15 feet of any street right-of-way line; where a greater street setback line has been established, locate no gasoline pump within 15 feet of such setback line. Pumps shall be protected from vehicle impact with bollards or other physical structures.
 - (e) *On-site circulation.* Be designed to ensure proper functioning of the site as related to vehicle stacking, circulation and turning movements.
 - (f) *Trash storage.* Provide adequate, enclosed trash storage facilities on the site.
 - (g) *Storage and accessory sales of materials and equipment.*
 - (i) Have no outdoor displays of materials or equipment, including tires, except in a display rack for automobile products no more than four feet wide, maintained within three feet of a principal building. There shall be a limit of one display rack per street frontage.
 - (ii) Not store any unlicensed, inoperable or junked vehicles.
 - (h) *No outdoor sale of oil, grease, auto parts.* Where mini-service and self-service facilities sell food, hardware, drugs and related items, in conjunction with gas, prohibit the outdoor sale of oil, grease, parts or accessories for automobiles and related items, and no service except for self-service water, air or carwash.
 - (i) *Repair work.* In a full-service station, ensure all repair work, vehicle washing, lubrication, and installation of parts and accessories is performed within an enclosed structure.
 - (j) *Storage of automobiles.* In a full-service station, store all automobile parts, dismantled vehicles, and similar materials within an enclosed building or totally screen them from view by a solid or privacy fence. A chainlink fence with slats shall not constitute acceptable screening or fencing.
 - (k) *Automotive repair and servicing.* If a full-service gasoline sales use provides automotive repair and servicing, it shall comply with all the standards listed for automobile repair and service stations (Subsection 4.3.4(J)(3) of this section, Automobile repair and servicing).
- (7) *Tire sales and mounting, transmission or muffler shop.* Tire sales and mounting and transmission or muffler shop uses shall comply with the following standards:

- (a) *Minimum separation.* Lots shall be located at least 250 feet from schools, day care centers, residential uses, or vacant land in residential zone districts.
 - (b) *Enclosure.* Repair and store all vehicles within an enclosed building. Temporary vehicle storage may be allowed in an outdoor storage area that shall be no larger than 25 percent of the total lot area. Such areas shall be located to the rear of the principal structure and be screened from off-site views. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.
 - (c) *Public address systems.* Have no outdoor speaker or public address system which is audible from single-family lands.
 - (d) *Trash storage.* Provide adequate, enclosed trash storage facilities on the site.
 - (e) *Testing.* Not test vehicles on residential streets.
 - (f) *Storage of automobiles.* Store all automobile parts, dismantled vehicles, and similar materials within an enclosed building or totally screen them from view by an opaque or privacy fence. A chainlink fence with slats shall not be used to comply with this standard.
- (8) *Towing service.* Such uses shall not include outdoor storage lots or impounds yards for towed vehicles.

(K) *Visitor accommodations.*

- (1) *Bed and breakfast.* Bed and breakfasts shall comply with the following standards:
 - (a) *Owner or operator-occupied.* The owner-operator shall reside on the premises.
 - (b) *Permitted use.* Be located within a structure which is permitted within the district in which it is located.
 - (c) *Cooking.* The individual guestrooms shall have no cooking implements, including, but not limited to, stoves, grills or ovens.
 - (d) *Meals.* No meals other than breakfast shall be served to paying guests.
 - (e) *Alterations.* Only allow exterior alterations to ensure safety of the structure or enhance compatibility of the bed and breakfast with the surrounding neighborhood.
 - (f) *Parking.* Provide one parking space for each guestroom. Parking shall not be permitted in the front yard. On-street parking shall be permitted on residential side streets. There shall be 20 feet of street frontage for every on-street parking space. On-site parking shall be screened with a landscaped buffer to reduce undue noise, odor or glare on surrounding lands.
 - (g) *Advertising.* Outdoor advertising shall be limited to one on-site sign nine square feet in area.
- (2) *Bed and breakfast inn.* Bed and breakfast inns shall comply with the following standards:
 - (a) *Size.* Not contain more than ten guestrooms.
 - (b) *Limited accessory uses.* Not contain accessory uses such as newsstands or gift shops.
 - (c) *Residential appearance.* Not be altered in any way that changes the residential appearance of the building in which it is located.
 - (d) *Cooking.* The individual guestrooms shall have no cooking implements, including, but not limited to, stoves, grills or ovens.

- (e) *Meals.* Serve meals to registered guests only, not the general public.
- (3) *Hotel or motel.*
- (a) *Area devoted to nonliving quarters.* Up to 15 percent of the gross floor area of a hotel or motel may be in non-living-quarter incidental uses (accessory uses), including management/employee offices, meeting rooms, banquet halls, retail services, such as newsstands and gift shops and similar uses, provided any incidental business is conducted primarily to service guests, and, there is no entrance to such places of business except from the inside of the building.
- (b) *Eating establishments.* In addition to the accessory uses allowed in Section 4.4.4, Accessory uses and structures allowed, up to an additional 25 percent of the gross floor area of a hotel or motel may be devoted to eating establishments as an accessory use. The eating establishment may have an entrance from outside of the principal building.
- (L) *Warehouse and freight movement.*
- (1) *Parcel services; truck or freight terminal; warehouse (distribution or storage).* Parcel services, truck or freight terminals or warehouses (distribution or storage) shall comply with the following standards:
- (a) *Minimum separation.* Separation distance shall be measured from lot line to lot line. Lots shall be located at least 250 feet from schools, day care centers, residential uses or vacant land in residential zone districts, unless one of the following conditions is met:
- (i) The proposed parcel services, truck or freight terminal, warehouse use is located with an intervening arterial or collector street between such use and schools, day care centers, residential uses or vacant land in residential zone districts. In such cases, the minimum separation shall be at least 100 feet. The separation may be further reduced to at least 50 feet when a Type D perimeter buffer that includes 200 percent of the plantings and 200 percent of the width in Table 6.2-2 is provided. All plantings and screening shall be placed to create a visual separation between the proposed parcel services, truck or freight terminal or warehouse (distribution or storage) use and schools, day care centers, residential uses or vacant land in residential zone districts and to ensure adequate area for full growth of planted trees. In no case shall the minimum separation be less than 150 feet from the nearest exterior wall of an existing residential dwelling unit to the proposed parcel services, truck or freight terminal or warehouse (distribution or storage) use.
- (ii) The proposed parcel services, truck or freight terminal, or warehouse use provides a Type D perimeter buffer that includes 200 percent of the plantings and 200 percent of the width in Table 6.2-2. All plantings and screening shall be placed to create a visual separation between the proposed parcel services, truck or freight terminal or warehouse (distribution or storage) use and schools, day care centers, residential uses or vacant land in residential zone districts and to ensure adequate area for full growth of planted trees. In such cases, the minimum separation from schools, day care centers, residential uses or vacant land in residential zone districts may be reduced to 100 feet. In no case shall the minimum separation be less than 150 feet from the nearest exterior wall of an existing residential dwelling unit to the proposed parcel services, truck or freight terminal or warehouse (distribution or storage) use.

- (b) *Displays outside setbacks and buffers.* Not locate storage areas within a required setback or buffer.
 - (c) *Landscaping.* Landscape front building setback areas to provide a buffer between the right-of-way and storage areas. Landscape side yard setbacks if the side yard abuts a public right-of-way. Landscaping shall be provided in accordance with Section 6.2.2, Landscaping standards.
 - (d) *Screening.* Screen all outside storage areas that abut a public right-of-way with a solid (100 percent opaque) wall or fence with a minimum height of eight feet.
 - (e) *Public address systems.* Have no outdoor speaker or public address system which is audible from single-family lands.
 - (f) *On-site circulation.* Be designed to ensure proper functioning of the site as related to vehicle stacking, circulation and turning movements.
 - (g) *Access.* Have direct access onto an arterial or major collector road.
- (2) *Outdoor storage (principal use).* Outdoor storage shall comply with the following standards:
- (a) *Screened from view.* Be screened from views from adjacent parcels and streets by an opaque fence or masonry wall (opaque) at least eight feet in height. The height of merchandise, materials, and equipment stored shall not exceed the height of the screening fence or wall.
 - (b) *No customer or vehicular circulation.* No customer or vehicular circulation may occur through the area used for outdoor storage.
 - (c) *Transitional use area requirement.* When such use is located within a CI, ILW or IG district which adjoins a residential district, and is located upon the same frontage as the residential district without an intervening street, such uses may not be closer than 100 feet from the residential district boundary line.

(M) *Waste-related services.*

- (1) *Recycling dropoff center.* A recycling dropoff center shall comply with the following standards:
- (a) *Mobility of collection bin.* The bin shall include wheels or other devices to ensure its transportability.
 - (b) *Location of collection bin.* The collection bin shall be located in or adjacent to an off-street parking area, and shall not exceed 400 square feet unless a larger size is approved by the LDR Administrator.
 - (c) *Appearance.* The area within and adjacent to the bin shall be maintained in good condition and free from trash.
 - (d) *No collection or storage of hazardous or biodegradable wastes.* There shall be no collection or storage of hazardous or biodegradable wastes on the site.
- (2) *Recycling and salvage center.* A recycling and salvage center shall comply with the following standards:
- (a) *Minimum separation.* Lots shall be located at least 250 feet from schools, day care centers, residential uses, or vacant land in residential zone districts.
 - (b) *Minimum lot area.* The minimum lot size for recycling and salvage centers shall be two acres.
 - (c) *Configuration.* Except for a freestanding office, no part of a recycling and salvage center and its accessory ramps, on-site circulation system or storage areas, shall be located within 50 feet of any property line.

- (d) *Storage areas.* All storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of a storage area can be seen from rights-of-way or adjacent lots. In no case shall the height of recyclable or recovered materials or nonrecyclable residue stored in outdoor areas exceed 20 feet or the height of the principal building on the lot, whichever is greater.
 - (e) *Fencing required.* In addition to any landscaped buffer required under Section 6.2, Tree protection standards/landscape/xeriscape standards, all outdoor storage areas shall be surrounded by a solid (opaque) fence that is at least eight feet high, located no less than 100 feet from any public right-of-way, and located no less than 50 feet from any adjacent property.
 - (f) *Recyclable materials.* Recyclable materials shall be contained within a leakproof bin or trailer. There shall be no storage of materials on the ground.
 - (g) *Limited sorting and separation.* Only limited sorting, separation or other processing of deposited materials shall be allowed on the site.
 - (h) *No collection or storage of hazardous or biodegradable wastes.* There shall be no collection or storage of hazardous or biodegradable wastes on the site. There shall be no chipping, mulching or receiving of construction debris.
 - (i) *Transitional use area requirement.* When such use is located within a CI, ILW or IG district which adjoins a residential district, and is located upon the same frontage as the residential district without an intervening street, such uses may not be closer than 100 feet from the residential district boundary line.
- (3) *Salvage yard and junkyard; tire disposal or recycling.* A salvage yard and junkyard or tire disposal or recycling facility shall comply with the following standards:
- (a) *Maximum size.* Be no larger than ten acres.
 - (b) *Minimum separation.* Lots shall be located at least 300 feet from schools, day care centers, residential uses or vacant land in residential zone districts.
 - (c) *Enclosed.* Be completely enclosed by solid (opaque) wall or fence with a minimum height of eight feet. The wall or fence shall not be located on the property line.
 - (d) *Transitional use area requirement.* When such use is located within a CI, ILW or IG district which adjoins a residential district, and is located upon the same frontage as the residential district without an intervening street, such uses may not be closer than 100 feet from the residential district boundary line.

(Ord. No. 09-29, § 3(4.3.1—4.3.4), 9-28-2009; Ord. No. 13-06, § 3, 5-6-2013; Ord. No. 14-08, § 3(Exh. A), 9-8-14; Ord. No. 16-04, § 3(Exh. A), 4-11-2016; Ord. No. 19-31, § 3(Exh. A), 7-22-2019; Ord. No. 20-08, § 3(Exh. A), 7-27-2020; Ord. No. 21-07, § 3(Exh. A), 6-14-2021; Ord. No. 22-01, § 3(Exh. A), 10-11-2021; Ord. No. 22-12, § 3(Exh. A), 5-23-22; Ord. No. 22-15, § 3(Exh. A), 7-25-2022; Ord. No. 23-04, § 3(Exh. A), 9-11-2023)

Sec. 4.4. - Accessory uses and structures.

4.4.1 *Purpose.* This section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses. The City's intent in adopting this section is to allow a broad range of accessory uses, so long as such uses are located on the same site as the principal use, and so long as they comply with the standards set forth in this section in order to reduce potentially adverse impacts on surrounding properties.

4.4.2 *General standards and limitations.*

(A) *Compliance with LDR requirements.* All accessory uses and accessory structures shall conform to the applicable requirements of these LDRs, including the use regulations of Article 4, Use Regulations, and the dimensional standards of Article 5, Density, Intensity and Dimensional Standards. The provisions of this section establish additional standards and restrictions for particular accessory uses and structures.

(B) *General standards.* All accessory uses and accessory structures shall meet the following standards:

- (1) Directly serve the principal use or structure.
- (2) Be customarily accessory and clearly incidental and subordinate to principal use and structure.
- (3) Be subordinate in area, extent, and purpose to the principal use or structure.
- (4) Be owned or operated by the same person as the principal use or structure.
- (5) Be located on the same lot as the principal use or structure or on a contiguous lot.
- (6) Together with the principal use or structure, not violate the bulk, density, parking, landscaping or open space standards of these LDRs.
- (7) Not be constructed or established prior to the time the principal use or structure is constructed or established.
- (8) Not constitute a combination use, which is the combination of two principal uses (combination uses will not meet the above standards in terms of being subordinate or providing service to the principal use).

(C) *Approval of accessory uses and structures.* An accessory use or structure may be approved in conjunction with approval of the principal use or structure. Accessory structures proposed to be added to existing development and accessory uses proposed to be added to existing development which affect the layout or configuration of the site shall be approved in accordance with Section 2.4.9, Minor site plans, site plans, and infrastructure plans. Accessory uses proposed to be added to existing development which do not affect the layout or configuration of the site shall be reviewed and approved in accordance with Section 2.4.15, Certificate of LDR Compliance.

(D) *Table of permitted accessory uses.*

- (1) *Table as guide.* Table 4.4-1, Table of Permitted Accessory Uses, is established as a guide to identify the appropriateness of the more common accessory uses in each zone district.
- (2) *Listed accessory uses.* Table 4.4-1, Table of Permitted Accessory Uses, lists what types of accessory uses, structures, and activities are allowed in each of the zone districts. If a specific accessory use is allowed in a zone district, the column underneath the zone district is marked with the letter A. If the accessory use or structure is not allowed in a zone district, the column is left blank. If there is a reference contained in the column entitled additional requirements,

refer to the cited sections for additional standards that shall apply to the specific accessory use.

(3) *Interpretation of unidentified accessory uses.* The LDR Administrator shall evaluate potential accessory uses that are not identified in Table 4.4-1, Table of Permitted Accessory Uses, on a case-by-case basis, as an interpretation to the LDRs pursuant to Section 2.4.19, Interpretation by LDR Administrator. In making the interpretation, the LDR Administrator shall apply the following standards:

- (a) *General standards.* The definition of the term "accessory use" (see Article 10, Definitions), and the general accessory use standards established in Subsection 4.4.2(B) of this section, General standards.
- (b) *Additional standards.* The additional regulations for specific accessory uses established in Subsection 4.4.4 of this section, Accessory uses and structures allowed.
- (c) *Purpose and intent of zone districts.* The purpose and intent of the zone district in which the accessory use is located.
- (d) *Potential adverse impacts.* Any potential adverse impacts the accessory use may have on other lands in the area, compared with other accessory uses permitted in the zone district.
- (e) *Compatibility.* The compatibility of the accessory use, including the structure in which it is housed, with other principal and accessory uses permitted in the zone district.

(4) *Table 4.4-1, Table of permitted accessory uses.*

Table 4.4-1. Table of Permitted Accessory Uses

A = Permitted Blank = Prohibited

Accessory Use Type	CSV	A	Residential			Business								Planned Development				Additional Requirements		
			Single-Family (RSF)		Mobile Home (RMH)	Multiple Family (RMF)		OR	CN	CC	CBD	CI	CP	ILW	IG	GF	COMM	R	TND	EC
			1	3	4	6	5	P	8	15										

Accessory dwelling units	A	A	A	A	A													A	A	A	A	Sec. 4.4.4(A)
Air conditioner compressor unit (residential)	A	A	A	A	A	A	A	A										A	A	A	Sec. 4.4.2(E) (1)(c)	
Automated teller machine (ATM)									A	A	A	A	A	A			A	A	A			
Automatic Standby Generator	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	4.4.4(J)	
Automotive repair (occurring outdoors)	A													A	A	A					Sec. 4.4.3(B) (1)	
Country club	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Fences or walls	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Ground or roof mounted solar energy system	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	4.4.4(K)	
Home occupations	A	A	A	A	A	A	A	A	A					A			A	A	A	A	Sec. 4.4.4(C)	

Outdoor display and sales	A										A	A	A	A		A			A		A	A	Sec. 4.4.4(D)
Outdoor storage (as an accessory use)		A									A	A	A	A	A	A	A	A	A	A	A	A	Sec. 4.4.4(E)
Parking of business vehicles		A									A	A	A	A	A	A	A	A	A	A	A	A	Sec. 4.4.3(B) (2)
Recycling dropoff stations		A					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	Sec. 4.4.4(G)
Retail sales of goods as part of permitted industrial and warehouse uses											A		A	A	A	A		A				A	Sec. 4.4.4(H)
Satellite dish antenna (small)		A	A	A	A	A	A	A	A	A				A			A	A		A	A	A	Sec. 4.4.4(F) (2)
Satellite dish antenna (large)		A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	Sec. 4.4.4(F) (3)
Security or caretaker quarters		A									A	A	A	A	A	A	A	A	A	A	A	A	Sec. 4.4.4(B)

Storage or parking of trucks, cars, or major recreational equipment		A	A	A	A	A	A	A	A	A									A	A	A	A	A	Sec. 4.4.4(l)
Storage building or shed		A	A	A	A	A	A	A	A	A	A	A						A	A	A	A	A		
Swimming pools, hot tubs, and ornamental ponds and pools		A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A		
Structures used for water-related activities		A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A	A	A		
Use of travel trailer, recreational vehicle or tent as residence																								Sec. 4.4.3(A) (1)

Use of motor vehicle or trailer for sales, service, storage or other business	Sec. 4.4.3(A) (2)
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(E) *Location of accessory buildings, structures or vehicles.*

(1) *Location.*

(a) *Generally.*

- (i) No accessory use, structure, or activity, except for permitted fences or walls erected on a property line shall occupy or take place in a required front, side or waterfront yard (except for water-related activities in a required waterfront yard), but may be located in rear yards not less than ten feet from the rear lot line.
- (ii) No accessory structure shall project beyond the front building line of the principal structure or site.
- (iii) No accessory uses or structures shall be located within five feet of a principal structure.

(b) *Water-related activities.* Structures used for water related activities such as boat docks, boat houses, and similar uses may be located anywhere in a required waterfront yard.

(c) *Air conditioner compressor units.* Air conditioner compressor units shall not be located in any required yard.

(d) *Accessory dwelling units.* Accessory dwelling units shall not be located in any required yard.

(2) *Easements.* No accessory structure, including overhangs, shall be located within any platted or recorded easement or over any known utility.

(3) *Size.* For accessory structures which are accessory to residential uses, the combined floor area of all detached accessory structures shall occupy no more than 33 percent of the total floor area of the principal structure, unless otherwise allowed in these LDRs. For residential uses located in the Agricultural zone district, the maximum floor area of accessory structures which are accessory to residential uses shall not apply to structures used for bona fide agricultural purposes, including but not limited to structures such as barns, pole barns, and stables.

(4) *Storage or parking of boats, recreation vehicles, and utility or travel trailers.* Storage or parking of all boats, recreational vehicles, and utility or travel trailers allowed by this section shall be located within side or rear yards.

(F) *Height.* Except as otherwise expressly limited or allowed in this section or these LDRs, no accessory building or structure shall exceed the height of the principal use.

(G) *Signage.* All signs shall be governed by the standards set forth in Section 6.5, Signage.

(H) *Temporary accessory uses and structures.* Temporary accessory uses and structures shall be governed by the standards and temporary use permit procedures set forth in Section 2.4.12, Temporary use permit, and Section 4.5, Temporary uses and structures.

4.4.3 Accessory uses prohibited.

(A) *Prohibited in all zone districts.* The following activities shall not be regarded as accessory to a principal use on any site and are prohibited in all zone districts:

(1) *Use of travel trailer, recreational vehicle or tent as residence.* The use of a travel trailer, recreational vehicle or tent as a residence, permanent or temporary, is prohibited, with the following exceptions:

- (a) The use of a trailer approved as a temporary use for security pursuant to Section 4.5, Temporary uses and structures;
- (b) The use of one recreational vehicle (RV) or travel trailer with a self-contained wastewater disposal system as a temporary residence in the agricultural (A) zoning district incidental to construction on or development of a property for a residential dwelling on the property which the RV or travel trailer, which has access to temporary power, is located and only during the time in which construction or development is underway. Construction or development shall be considered to be actively underway when an active building permit has been issued for a residential dwelling on the property. In no case shall an RV or travel trailer be used as a temporary residence incidental to construction on or development of property for a residential dwelling for more than 12 months, provided however two extensions not to exceed six months each for a total of 24 months may be granted by the LDR Administrator upon a showing of good cause; or,
- (c) The use of one RV or travel trailer which has a self-contained wastewater disposal system may be used as a temporary residence on a property with a residential use by a non-commercial (non-paying) guest of the resident of the property for up to 14 days in any six-month period, subject to the issuance of a temporary use permit. The RV or travel trailer shall only be located in the driveway or a side or rear yard of the property. Utilization of an RV or travel trailer as a temporary residence is not considered as storage.

(2) *Use of motor vehicle or trailer for sales, service, storage or other business.* The use of any motor vehicle, or trailer or shipping container, as a structure in which, out of which, or from which, any goods are sold or stored, any services performed, or other businesses conducted. This subsection shall not prohibit the following:

- (a) *Retail sale of agricultural products.* The retail sale of agricultural products, as allowed by the relevant provisions of these LDRs.
- (b) *Retail sale of prepared food.* The retail sale of prepared food, as allowed by the relevant provisions of these LDRs.
- (c) *Recycling operation.* Use of a motor vehicle, trailer, or shipping container in connection with an approved recycling operation.
- (d) *Sales related to construction.* Use of a trailer or shipping container in conjunction with construction authorized by a building permit.
- (e) *Temporary loading and unloading.* Use of a trailer or shipping container for the temporary loading and unloading of goods not intended for retail sale, provided that no individual trailer or container is in place longer than 48 hours.

(B)

Prohibited in residential zone districts. The following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts:

- (1) *Automotive repair.* Automotive repair, including engine, body, or other repair or repainting of more than one vehicle at any one time; as well as automotive repair of any vehicle not owned by a person residing at that address, regardless of whether compensation was paid for the service.
- (2) *Parking of business vehicles.* The storage or parking of a vehicle or trailer, for a period of one or more nights, if the vehicle or trailer is licensed or regularly used for business purposes, and is either:
 - (a) *Commercial driver's license.* A vehicle for which a commercial driver's license is required by State law.
 - (b) *Vehicle in excess of two axles.* A vehicle or trailer having in excess of two axles.
 - (c) *Trailer bearing commercial signage.* Any trailer bearing commercial signage, logo or carrying commercial or industrial equipment or materials.
 - (d) *Height in excess of 90 inches.* A vehicle or trailer having a height in excess of 90 inches, which is stored or parked in any yard.

4.4.4 Accessory uses and structures allowed.

- (A) *Accessory dwelling unit.* An accessory dwelling unit shall comply with the following standards:
- (1) *Districts allowed.* Accessory dwelling units shall be allowed as accessory uses to principal residential uses pursuant to Table 4.4-1, Table of Permitted Accessory Uses.
 - (2) *Where permitted on lot.* A permitted accessory dwelling unit shall comply with all applicable development standards for principal dwelling units in the zone district in which the accessory dwelling unit will be located. Mobile homes, recreational vehicles and travel trailers shall not be used as accessory dwelling units.
 - (3) *Size of accessory unit.* No accessory dwelling unit shall exceed 33 percent of the size of the habitable floor area of the principal dwelling unit, or 800 square feet, whichever is less. An accessory dwelling unit may contain private sanitary facilities with hot and cold running water and cooking and food storage facilities.
 - (4) *Limit on number.* There shall be no more than one accessory dwelling unit on a lot in addition to the principal single-family detached dwelling.
 - (5) *Off-street parking.* At least one off-street parking space shall be provided for each bedroom located in an accessory dwelling unit.
 - (6) *Density.* Accessory dwelling units shall not count toward any applicable maximum residential density requirements.
 - (7) *Resale.* Accessory dwelling units shall not be sold apart from the principal dwelling upon the same lot where they are located.
 - (8) *Home occupations.* Home occupations shall be prohibited within an accessory dwelling unit.
 - (9) *Other standards.*
 - (a) *Comply all other applicable standards of LDRs.* An accessory dwelling unit shall comply with all other applicable standards for principal dwelling units in the zone district in which the accessory dwelling will be located.
 - (b)

Case of conflict. In the case of any conflict between the accessory dwelling unit standards of this section and any other requirement of these LDRs, the standards of this section shall control.

(B) *Security or caretaker's quarters.* A dwelling unit for security or caretaker's quarters shall comply with the following standards:

- (1) *Districts allowed.* A dwelling unit for security or caretaker's quarters shall be allowed as an accessory use to commercial and business principal uses in the districts allowed in Table 4.4-1, Table of Permitted Accessory Uses.
- (2) *One unit per principal use.* Only one such dwelling unit per principal use shall be allowed.
- (3) *Locate inside principal building.* The accessory dwelling unit shall be inside the principal building; no detached dwelling units or mobile homes are allowed.
- (4) *Maximum unit size.* An individual unit shall not exceed 1,200 square feet of gross floor area.
- (5) *Off-street parking.* A minimum of one off-street parking space shall be provided for each bedroom in a dwelling unit, in addition to the required parking for the principal use or business.
- (6) *Occupant.* Only the owner, operator, caretaker, or an employee of the principal building, plus his or her immediate family, may occupy the dwelling unit.

(C) *Home occupations.* A home occupation shall be permitted as accessory to any principal dwelling unit, provided that:

- (1) *Size/area.* The business or service is located within the dwelling or an associated accessory building, and does not exceed 20 percent of the combined floor area of the structures.
- (2) *Employees and residency.*
 - (a) *Person providing business resides in dwelling.* The principal person or persons providing the business or service resides in the dwelling on the premises.
 - (b) *Employs no more than one person who does not reside in dwelling.* The home occupation employs no more than one person who does not reside on the premises.
- (3) *Neighborhood compatibility.*
 - (a) *No change in external appearance.* The home occupation causes no change in the external appearance of the existing dwelling and structures on the property.
 - (b) *Use of vehicles.* All vehicles used in connection with the home occupation are of a size, and located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the neighborhood, and there are no more than two vehicles per home occupation.
 - (c) *Off-street parking.* There is sufficient off-street parking for patrons of the home occupation, with the number of off-street parking spaces required for the home occupation to be provided and maintained in addition to the space or spaces required for the dwelling itself pursuant to Section 6.1, Off-street parking and loading standards.
 - (d) *No additional parking areas in front yard.* No additional parking areas other than driveways are located in the required front setback.
 - (e)

No advertising. There are no advertising devices on the property, or other signs of the home occupation, which are visible from outside the dwelling or accessory building.

- (f) *No outdoor display or storage of goods.* The property contains no outdoor display or storage of goods or services that are associated with the home occupation.
- (g) *No material delivery.* No large-scale material or other form of delivery beyond those typically associated with a single-family dwelling.
- (h) *No wholesale or retail sale of goods.* Wholesale or retail sales of goods do not occur on the premises.
- (i) *No adverse impacts.* The home occupation does not create traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception.

(D) *Outdoor display and sales.* Outdoor display and/or sales may be allowed as an accessory use for all retail and wholesale uses in the districts identified in Table 4.4-1, Table of Permitted Accessory Uses. It is the intent of this these LDRs to allow the display of merchandise for sale, but not where the display of such items impedes the flow of pedestrian or vehicular traffic, or creates an unsafe condition. This shall not include hazardous and flammable materials, such as gasoline, oil, antifreeze, kerosene, poisons, pesticides and similar items. The display of goods shall meet all of the following standards:

- (1) *Procedure.* All applications for site plans and subdivisions must show the location of such areas in accordance with this section.
- (2) *Location and dimensions.*
 - (a) *Location.* All outdoor display of goods shall be located immediately adjacent to the storefront and not in drive aisles, loading zones, fire lanes or parking lots.
 - (b) *Not on side or rear of building.* The area used for outdoor display or sales shall not occur on the sides and rear of buildings and shall be limited to no more than one-half of the length of the storefront, unless increased by the LDR Administrator after taking into account aesthetic and safety concerns.
 - (c) *Shopping center.* In the case of a shopping center, the storefront shall include the entire frontage of the shopping center, meaning that the total amount of display for all the in-line tenants combined shall not exceed 50 percent of the aggregate storefront of the total shopping center.
 - (d) *Not to encompass width of entrance doors.* The area of outdoor display or sales shall not encompass the width of the entrance doors to the establishment as projected straight out from the facility. (For example, if the width of the entrance doors is ten feet, there shall be at least a ten-foot clearance from the doors as projected straight out and away from the facility.)
 - (e) *No goods attached to wall surface.* No goods shall be attached to a building's wall surface.
 - (f) *Height.* The height of the outdoor display shall not exceed eight feet.
 - (g) *Improved surface.* The outdoor display area shall take place on an improved surface such as the sidewalk or pavement.
- (3) *No pedestrian obstruction.* At least five feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display.

(4) *Temporary sales distinguished.* The provisions of this section shall not apply in cases of temporary sales events, such as weekend sidewalk sales, seasonal vegetable sales and other similar temporary uses. See Section 4.5, Temporary uses and structures, for regulations applying to temporary sales.

(E) *Outdoor storage as an accessory use.* Outdoor storage may be allowed as an accessory use in the districts identified in Table 4.4-1, Table of Permitted Accessory Uses. The storage area shall meet all of the following standards:

(1) *Incorporated into design.* Each outdoor storage area shall be incorporated into the overall design of the primary structure on the site and shall be located at the rear of the primary structure.

(2) *Goods stored must be sold on the premises.* Goods stored in an outdoor storage area shall be limited to those sold on the premises as part of an associated, additional primary use.

(3) *Screening.* Each outdoor storage area shall be screened from view from all property lines and adjacent rights-of-way by an opaque fence or wall between six and eight feet in height that incorporates at least one of the predominant materials and one of the predominant colors used in the primary structure. Materials may not be stored higher than the height of the primary structure. The perimeter of the fence or wall shall be landscaped with a seven-foot-wide strip containing a minimum of one tree every 20 feet on center of screened area.

(4) *Landscaped berm.* A landscaped earth berm may be used instead of or in combination with a fence or wall.

(5) *Storage area covering.* If the outdoor storage area is covered, then the covering shall include at least one of the predominant exposed roofing colors on the primary structure.

(6) *Storage.* No materials may be stored in areas intended for vehicular or pedestrian circulation.

(7) *Exterior lighting.* If installed, exterior lighting shall meet the functional needs of the establishment without adversely affecting adjacent properties or the neighborhood.

(F) *Satellite dish antenna.*

(1) *Purpose.* These standards are adopted in order to:

(a) *Comply with applicable State and Federal law.* Comply with applicable State and Federal law, including the Federal Telecommunications Act of 1996.

(b) *Lessen impact from satellite dish antennas on surrounding properties.* Control the location and screening of satellite dish antennas to lessen any impact on surrounding properties.

(c) *Image and character.* Preserve the City's image and character.

(2) *Small satellite dish antennas.* Satellite dish antennas of one meter (or 39 inches) or less in diameter are permitted accessory uses in all residential and planned development districts. Such dishes shall not be located within the public right-of-way.

(3) *Large satellite dish antennas.*

(a)

Nonresidential zone districts. Satellite dish antennas measuring one meter (or 39 inches) or more are permitted accessory uses in nonresidential and planned development districts.

- (b) *Residential zone districts.* Satellite dish antennas measuring one meter or more are permitted accessory uses in the residential and planned development districts. Such dishes are subject to the standards set forth below to the maximum extent feasible, but only where there is no impairment of acceptable signal quality. These regulations are not intended to impose unreasonable delays or impose unreasonable costs on the installation, maintenance, or use of satellite dishes, and shall not be interpreted or enforced in any manner contrary to Federal or State law.
- (i) Satellite dishes shall be located to the rear of the principal building, but not within five feet of any side or rear property line or in any required buffer.
 - (ii) Satellite dishes shall be screened so that no more than 40 percent of the area of the satellite dish antenna is visible from any public street or private street open to the public. The screen may consist of, but is not limited to, fences, buildings, plantings, or any other opaque vegetation or structure permanently affixed to the real property. Screens of vegetation may be installed to meet this standard.

(G) *Recycling dropoff stations.* Recycling dropoff stations shall comply with the following standards:

- (1) *Generally.* All dropoff containers and storage bins, with the exception of roll-out carts located in townhouse and multifamily developments and recycling containers located on school sites, shall be screened from view to at least the height of the containers and bins in the station. The screen may be fencing or plantings. If plantings are used, the plants must reach the height indicated in the previous sentence within three years of planting. Roll-out carts shall be a neutral or earth tone color, not be visible from a public street and be located within the interior of the development.
- (2) *Litter and debris.* The station shall be kept free of litter, debris and residue.
- (3) *Signage.* Each station shall be allowed one ground identification sign no more than 60 inches high and 17 square feet in area, apportioned between all the sides of the sign. The sign shall include the name and telephone number of a party responsible for management and maintenance of the station.
- (4) *Setbacks.* Dropoff containers and storage binds shall be located no closer than 50 feet to a dwelling.
- (5) *Size.* Excluding screening, dropoff containers and storage bins shall occupy no more than 500 square feet.
- (6) *Blocking access.* The station shall not occupy or block access to parking spaces or aisles.

(H) *Retail sales of goods as part of permitted industrial and warehouse uses.* Retail sales of goods as part of permitted industrial and warehouse uses shall comply with the following standards:

- (1) *Locate in principal building.* All retail sales shall be conducted within the same structure housing the principal industrial or warehouse use, and no outdoor retail sales activity shall be allowed.
- (2) *Hours of operation.* Hours of operation shall be limited to between 8:00 a.m. to 9:00 p.m.
- (3) *No additional advertising.* There shall be no additional advertising for the retail sales operation.
- (4) *Items sold.* Items for sale shall either be manufactured by the principal use or part of the principal warehouse's stock.

- (5) *Maximum gross floor area.* Maximum gross floor area of the accessory retail use shall be either ten percent of the total gross floor area of the principal use or 5,000 square feet, whichever is less.
 - (6) *Off-street parking.* Parking for the retail accessory use is provided according to the off-street parking standards for retail uses as stated in Section 6.1, Off-street parking and loading standards.
- (I) *Storage or parking of trucks, cars, or major recreational equipment.* Storage or parking of major recreational equipment (including, but not limited to, boats, boat trailers, camping trailers, recreational vehicles, motorized homes and house trailers) shall comply with the following standards:
- (a) *Front yard.* No trailer, boat, recreational vehicle or other major recreational equipment shall be parked or stored in the front yard on a lot or otherwise in front of a dwelling in a residential district or in residential portions of a PD district.
 - (b) *Yard adjacent to street in residential district.* No trailer, boat, recreational vehicle, or other major recreational equipment shall be parked or stored for longer than 24 hours in any side or rear yard immediately adjacent to a street in a residential district or in residential portions of a PD district.
 - (c) *Parking on public right-of-way in residential district.* Trailers, boats, recreational vehicles, or other major recreational equipment shall not be parked or stored on a public right-of-way in a residential zone district or in residential portions of a PD district for longer than 24 hours.
- (J) *Automatic standby generator.* Automatic standby generators shall be permitted as an accessory use provided that:
- (1) *Testing.* The generator shall only be used during an electrical power outage and as required by the manufacturer for maintenance purposes. Maintenance shall take place not more than once a week between the hours of 9:00 a.m. and 5:00 p.m. and shall not exceed one hour in duration.
 - (2) *Screening.* Generators shall be screened to minimize visual and aural impacts on neighboring properties. Screening shall constitute:
 - (a) A solid fence at least six feet in height constructed of wood, masonry, stone, or other similar materials, or
 - (b) Landscaping using evergreen materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of being planted.
 - (3) *Safety.* The generator must have an automatic transfer switch installed in accordance with the latest edition of the National Electric Code.
- (K) *Ground or roof mounted solar energy systems.* A ground or roof mounted solar energy system shall be permitted as an accessory use provided that:
- (1) *Glare.* No portion or part of the system shall emit unreasonable glare directed towards vehicular traffic or habitable portions of adjacent buildings or yards.
 - (2) *Design.*
 - (a) Roof mounted systems shall be designed so that the exterior surfaces of the system shall have a non-reflective finish and shall be color-coordinated to harmonize with the roof materials and/or other dominant colors of the structure.
 - (b) Ground mounted systems shall be designed so that the exterior system shall have a non-reflective finish and shall be color-coordinated to harmonize with the dominant colors of the primary structure on the property.
 - (c)

Roof mounted systems on any principal or accessory structure shall not be more than three feet higher than the finished roof to which it is mounted. No part of the roof mounted system shall extend beyond the edge of the roof.

(Ord. No. 09-29, § 3(4.4.2), 9-28-2009; Ord. No. 12-06, § 3, 1-23-2012; Ord. No. 13-06, § 3, 5-6-2013; Ord. No. 16-04, § 3(Exh. A), 4-11-2016; Ord. No. 18-08, § 3(Exh. A), 4-9-2018; Ord. No. 20-08, § 3(Exh. A), 7-27-2020; Ord. No. 23-02, § 3(Exh. A), 6-26-2023)

Sec. 4.5. - Temporary uses and structures.

4.5.1 *Purpose.* This section allows for the establishment of certain temporary uses of limited duration, provided that such uses do not negatively affect adjacent properties, and provided that such uses are discontinued upon the expiration of a set time period. Temporary uses do not involve the construction or alteration of any permanent building or structure.

4.5.2 *Table of allowed temporary uses and structures.* Table 4.5-1, Table of Allowed Temporary Uses and Structures, summarizes the temporary uses and structures that are allowed within the City and any general or specific standards that apply. Temporary uses or structures not listed in the following Table 4.5-1 are not allowed by these LDRs:

Table 4.5-1. Table of Allowed Temporary Uses and Structures

Temporary Use or Structure	Allowable Timeframe	Specific Regulations
Temporary structures		
Expansion or replacement of existing facilities (including temporary offices for construction and/or security personnel)	(A)	Permit required; see Section 4.5.6(A)
Real estate sales office/model sales home	(A)	Permit required; see Section 4.5.6(B)
Construction-related activities for new construction	(A)	No permit required; see Section 4.5.6(C)
Recreational vehicle or travel trailer as a temporary residence	(D)	Permit required; see Section 4.5.6(G)
Temporary sales		
Sale/display of goods other than agricultural products	(B)	Permit required; see Section 4.5.6(D)

Seasonal sales	(B)	No permit required; see Section 4.5.6(E)
Sidewalk and parking lot sales	(A)	No permit required; see Section 4.5.6(F)
Garage and/or yard sales	(C)	No permit required
Temporary not-for-profit carwash	(C)	No permit required
(A) Such structures may be in place for no more than one to three years.		
(B) Such sales are limited to a maximum of 90 days per calendar year with no more than three occurrences per parcel per year.		
(C) Such events are limited to 14 total days per calendar year, per parcel.		
(D) Recreational vehicles or travel trailers may be used as a temporary residence for up to a total of 14 days in any six-month period.		

4.5.3 *Prohibited temporary uses.* Without limiting the standards of these LDRs, the following activities are prohibited in all districts:

- (A) *Retail or display of goods, products or services in public right-of-way.* Retail sales or display of goods, products or services within the public right-of-way except as part of an authorized not-for-profit, special or City-recognized event.
- (B) *Retail sales or display of nonagricultural goods from vehicles.* Retail sales or display of nonagricultural goods, products or services from a motor vehicle, trailer or shipping container. The sale and/or display of agricultural products is exempt from this requirement.

4.5.4 *Temporary use permits.* All temporary uses and structures required to obtain a temporary use permit pursuant to Table 4.5-1, Table of Allowed Temporary Uses and Structures, shall obtain the permit pursuant to the procedures set forth in Section 2.4.12, Temporary use permit. A temporary use permit shall be reviewed, approved, or revoked only in accordance with the standards of this section.

4.5.5 *General standards for all temporary uses and structures.* All temporary uses or structures shall meet the following general standards, unless otherwise specified in these LDRs:

- (A) *Generally.* The temporary use or structure shall not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare.
- (B) *No adverse effects.* The temporary use or structure shall not have substantial adverse effects or noise impacts on nearby residential neighborhoods.

- (C) *Complies with standards.* The temporary use shall comply with all applicable general standards of Subsection 4.5.5 of this section, General standards for all temporary uses and structures, and the relevant specific standards of this section, unless otherwise expressly stated.
- (D) *Permanent alterations prohibited.* Permanent alterations to the site are prohibited.
- (E) *Temporary signs.* Temporary signs associated with the temporary use or structure shall be removed when the activity ends.
- (F) *Conditions of approval.* The temporary use or structure shall not violate any applicable conditions of approval that applies to a principal use on the site.
- (G) *Undeveloped property.* If the property is undeveloped, it shall contain sufficient land area to allow the temporary use or structure to occur, as well as adequate land to accommodate any parking and traffic movement associated with the temporary use, without disturbing sensitive or protected resources, and required buffers.
- (H) *Developed property.* If the property is developed, the temporary use or structure must be located in an area that is not actively used by an existing approved principal use, which would support the proposed temporary use without encroaching or creating a negative impact on existing buffers, open space, landscaping, traffic movements, pedestrian circulation, sensitive or protected resources, or parking space availability.
- (I) *Location.* Tents and other temporary structures will be located so as to not interfere with the normal operations of any permanent use located on the property.
- (J) *Off-street parking.* Adequate off-street parking shall be provided to accommodate the proposed temporary use.
- (K) *Inspections.* All inspections and permits required by applicable building codes shall be approved by the appropriate person and/or agencies.

4.5.6 Specific regulations for certain temporary uses and structures.

- (A) *Expansion or replacement of existing facilities.*
 - (1) *Purpose and scope.* Factory-fabricated, transportable buildings that are designed to arrive at the site ready for occupancy (except for minor unpacking and connection to utilities), and designed for relocation to other sites, may be placed on land to serve as the following:
 - (a) *Expansion space for religious institutions, health care facilities and government offices.* Expansion space for existing religious institutions, health care facilities, and government offices, provided plans for the permanent expansion of the existing facilities have been submitted to and been approved by the City.
 - (b) *Temporary classroom space.* Temporary classroom space to augment an existing school facility.
 - (c) *Temporary offices.* Temporary offices for construction and security personnel during the construction of a development for which the City has issued a building permit.
 - (d) *Temporary quarters for recreational facilities.* Temporary quarters for recreational facilities that are being provided in conjunction with a new residential development, provided the City has approved a site plan or subdivision plan for the development.
 - (e)

Temporary quarters for other nonresidential uses. Temporary quarters for other nonresidential uses when the permanent building has been destroyed by a fire or other physical catastrophe, provided a building permit for the permanent facility is obtained within 120 days after approval of the temporary quarters. The LDR Administrator may approve a written request for an extension of an additional 90 days for good cause shown. Failure to obtain a building permit within the timeframe allowed will revoke approval for the temporary quarters.

- (f) *Temporary office.* One temporary office per site to include, but not be limited to, the following uses: hiring, membership solicitation, apartment office/leasing, and other general office uses. The number of modular buildings housing such uses shall be limited to one, in addition to those already allowed by this section. Such modular buildings shall not be placed on the property prior to the issuance of a building permit.
- (2) *Standards.* In addition to meeting the general standards of Subsection 4.5.5 of this section, General standards for all temporary uses and structures, all temporary structures approved pursuant to this section shall meet the following standards:
 - (a) *Location.* Temporary structures allowed under Subsection 4.5.6(A) of this section, Expansion or replacement of existing facilities, may be located anywhere on site, except within the following areas:
 - (i) Existing landscape or buffer areas and buffer setbacks.
 - (ii) Areas designated as future buffer areas whether or not vegetation currently exists.
 - (iii) Other areas designated on the site for open space, vehicular use or ingress/egress.
 - (b) *Other standards.*
 - (i) The temporary structure shall be factory-fabricated and transportable.
 - (ii) In addition to any other off-street parking required on the site pursuant to [Section 6.1](#), Off-street parking and loading standards, adequate off-street parking shall be provided for the temporary use.
 - (iii) All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained prior to installation of the temporary structure.
 - (iv) The temporary structure shall be compatible with the existing buildings on the site in terms of exterior color.
 - (v) A sketch plan containing sufficient information to show compliance with the above standards shall be submitted to and approved as part of the temporary use permit by the LDR Administrator pursuant to Section 2.4.12, Temporary use permit.
- (3) *Duration.*
 - (a) *Generally.* Temporary structures under this subsection may remain on the site for no more than 12 months. This period may be renewed for two 12-month periods, for good cause shown, upon approval of a written request for such extension, submitted to the LDR Administrator 30 days prior to the expiration of the temporary use permit. In no event, shall the extension allow the temporary structure to remain on the site for more than three years.
 - (b) *Temporary classrooms.* Temporary classrooms for use as part of an existing school may be allowed to remain on the site for longer than three years.

(B) *Real estate sales office and model sales home.*

- (1) *General standards.* One temporary real estate sales office or model sales home may be allowed as incidental to a new residential or nonresidential development, provided that:
 - (a) *On lot.* The use is located on a lot approved by the City as part of a development.
 - (b) *Signage.* Signage complies with the standards of Section 6.5, Signage.
 - (c) *Aesthetically compatible.* The temporary use is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscaping.
 - (d) *Yard and setbacks.* The temporary use complies with the minimum yard and setback standards of the zone district in which it is located.
 - (e) *Off-street parking.* Off-street parking provided for the temporary use complies with the standards of Section 6.1, Off-street parking and loading standards.
 - (f) *Sketch plan.* A sketch plan, containing sufficient information to show compliance with the above standards is submitted to and approved by the LDR Administrator pursuant to Section 2.4.12, Temporary use permit.
 - (g) *Termination.* Upon termination of the temporary real estate sales office or model sales home, the structure is converted into, or removed and replaced with, a permanent residential use.
 - (h) *Adverse impacts.* In approving or renewing approval of a real estate sales office, the LDR Administrator may impose other conditions as is deemed necessary to avoid adverse impacts that the use as a sales office may have on adjacent properties or the community as a whole.
 - (i) *Temporary trailers.* All temporary trailers shall be removed from the site prior to the issuance of the last certificate of occupancy for the site.
- (2) *Duration.*
 - (a) *Temporary real estate sales offices.* Temporary real estate sales offices may be approved for a period of up to one year. This period may be renewed for two additional 12-month periods, for good cause shown, upon approval of a written request for such an extension, submitted to the LDR Administrator, 30 days prior to the expiration of the permit. In no event shall the extension allow the temporary structure to remain on the site for more than three years.
 - (b) *Model sales homes.* Model sales homes may be approved for a period of up to three years. This period may be renewed for additional six-month periods, for good cause shown, upon approval of a written request for such an extension submitted to the LDR Administrator, 30 days prior to the expiration of the permit. There is no time limit on the use of model sales units for rental housing.

(C) *Construction-related activities for new construction.*

- (1)

Generally. Temporary construction-related activities for new construction, including construction offices and storage buildings, outdoor storage, and employee parking areas, may occur on the same site as the construction activity without obtaining a temporary use permit. Such uses shall be removed within 30 days after issuance of a final certificate of occupancy.

(2) *Adjacent site.* Because of site constraints, construction-related activities may need to occur on a site that is adjacent to or nearby the construction site. In such cases, a temporary use permit is required (Section 2.4.12). Such uses shall be removed within 30 days after issuance of a final certificate of occupancy, and the site restored to its previous condition.

(D) *Sale/display of goods other than agricultural products.*

(1) *Applicability.* Merchants may display and/or sell goods in the City on a temporary basis without establishing a permanent place of business, subject to the standards of this section.

(2) *Location.*

(a) *No temporary use permit for outdoor sales that are accessory uses.* The outdoor display and/or sale of goods consistent with the provisions of Section 4.4.4(D), Outdoor display and sales, is considered an accessory use and does require a temporary use permit.

(b) *All other sales/displays require temporary use permit.* All other sales/displays of goods (other than agricultural products) require a temporary use permit pursuant to Section 2.4.12, Temporary use permit, and this subsection.

(3) *Standards.* A temporary use for the temporary display and/or sale of products shall comply with the following standards:

(a) *Generally.* The property contains an area that is not actively used that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing buffers, open space, landscaping, traffic movements, or parking space availability.

(b) *Required distance from residences.* The proposed display and/or sale of goods, products and/or services for commercial purposes may not occur within 200 feet of a residential dwelling unit.

(c) *Similar products, goods and services.* A temporary display or sale of products, goods and/or services for commercial purposes shall be limited in scope to similar or complimentary products, goods, and/or services to those offered by the existing principal use located on the same site. The temporary sale of nonagricultural products, goods, and/or services that differ from the normal range of those offered by an existing principal use shall be prohibited.

(d) *Not to interfere with normal operations.* Tents and other temporary structures will be located so as not to interfere with the normal operations of any permanent use located on the property.

(e) *Compatible.* Tents and other temporary structures are compatible with the predominant color of the principal structure on the premises.

(f) *Off-street parking.* Off-street parking is adequate to accommodate the proposed sale of products.

(g) *Emergency vehicles.* The temporary sale of products will not cause interference with the movement of emergency vehicles to such an extent that adequate police, fire or other emergency services cannot be provided.

(h) *Hours of operation.* The hours of operation of the temporary sale of products shall be from no earlier than 7:30 a.m. to no later than 10:00 p.m., or the same as the hours of operation of the principal use, whichever is more restrictive.

(4) *Duration; sales per year.*

(a) *Generally.* The temporary sale of nonagricultural products shall be allowed on an individual parcel or site for no more than 90 total days per calendar year.

(b) *Sales products per site.* The number of temporary sales of products per site per calendar year shall not exceed three.

(E) *Seasonal sales.* Seasonal sales, including the sale of such items as Christmas trees and pumpkins, seasonal produce and other similar agricultural products, may be permitted for a maximum of 90 days.

(F) *Sidewalk and parking lot sales.* Sidewalk and parking lot sales, located on the same site as the merchant's permanent place of business, may be permitted for a maximum of 60 days per calendar year. There shall be no more than three temporary sidewalk or parking lot sales of goods per site per calendar year.

(G) *Recreational vehicle or travel trailer as a temporary residence.*

(1) *General standards.* One recreational vehicle (RV) or travel trailer with a self-contained wastewater disposal system may be used as a temporary residence on any property which has a residential use by a non-commercial (non-paying) guest of the resident of the property, provided the vehicle is located in the driveway or a side or rear yard of the property.

(2) *Duration.* An RV or travel trailer may be used as a temporary residence pursuant to this section for up to a total of 14 days in any six-month period.

(Ord. No. 18-08, § 3(Exh. A), 4-9-2018; Ord. No. 23-02, § 3(Exh. A), 6-26-2023)

Sec. 4.6. - Special events.

4.6.1 *Applicability.*

(A) *Generally.* The procedures and standards of this subsection shall apply to all special events (including but not limited to events serving alcohol [unless the event is exempt from obtaining a special event permit pursuant to Section 4.6.2 of these LDRs], cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses, and communal camping) held within the City, unless exempted pursuant to Subsection 4.6.2 of this section, Exemptions.

(B) *Special event permit required.* All special events subject to this subsection shall have a special event permit application reviewed and approved or approved with conditions by the LDR Administrator pursuant to Section 2.4.13, Special event permit, prior to conducting the special event.

4.6.2 *Exemptions.* The following events or activities are exempt from the standards of this subsection (i.e., may occur without a special event permit); such activities are subject to all other applicable procedures and standards of these LDRs:

(A) *On grounds of private residence.* Special events or activities occurring within, or on the grounds of, a private residence or on the common areas of a multifamily residential development.

(B)

Event or activity at site intended for such event or activity. Any organized activities conducted at sites or facilities typically intended and used for such activities. Examples of such exempt activities include, but are not limited to, sporting events such as golf, soccer, softball, and baseball tournaments conducted on courses or fields intended and used for such activities; wedding services conducted at reception halls, event venues, or similar facilities; funeral services conducted at funeral homes or cemeteries; religious services, wedding services, and funeral services conducted at religious institutions.

- (C) *Agritourism.* Any activities which are consistent with the definition of agritourism and the applicable provisions pertaining to agritourism as set forth in F.S. chs. 570.85—570.89, as amended.

4.6.3 *Standards.* An application for a special event permit shall comply with the following standards:

- (A) *Application contains intentionally false or material misleading information.* The application shall not contain intentionally false or materially misleading information.
- (B) *Unreasonable risk.* The special event shall not create an unreasonable risk of significant:
- (1) Damage to public or private property, beyond normal wear and tear;
 - (2) Injury to persons;
 - (3) Public or private disturbances or nuisances;
 - (4) Unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel;
 - (5) Additional and impracticable or unduly burdensome police, fire, trash removal, maintenance or other public service demands; and
 - (6) Other adverse effects upon the health, safety or welfare.
- (C) *Location cannot be accommodated.* The special event shall not be of such a nature, size, or duration that the particular location requested cannot reasonably accommodate the event.
- (D) *Time permitted or reserved for other activities.* The special event shall be at a time and location that has already been permitted or reserved for other activities.
- (E) *Alcoholic beverages within City right-of-way and other City property.* The sale or consumption of alcoholic beverages may be permitted for a special event occurring wholly or partially within a City right-of-way, municipally owned, leased, operated, or controlled property, or area, or in any municipal park or recreation area as set forth in Chapter 4, Section 4-4, of the City of Alachua Code of Ordinances.
- (F) *Requirements for special events with alcoholic beverages.* Special events which include the sale or consumption of alcoholic beverages shall be subject to the following requirements:
- (1) The special event permit application shall be reviewed by the appropriate City departments to ensure protection of the health, safety or welfare of the general public. Particular attention will be given the impacts created by the special event, including but not limited to, impacts upon traffic flow and control, vehicular and pedestrian safety, noise, lighting, and the effect that the special event will have on surrounding uses, particularly where the adjoining or nearby use is residential.

- (2) The sale or consumption of alcoholic beverages shall occur only between the hours set forth in [Chapter 4, Section 4-2\(c\)](#) of the City of Alachua Code of Ordinances. As a condition of a special event permit, the LDR Administrator may further restrict the times at which alcoholic beverages may be sold or consumed during a special event.
- (3) The applicant shall not permit alcoholic beverages to be brought into or consumed inside the permitted special event area, nor shall the applicant permit alcoholic beverages sold or dispensed inside the special event area to be taken out of, or consumed outside of, the special event area.
- (4) The LDR Administrator may impose additional conditions upon a special event which includes for the sale or consumption of alcoholic beverages as deemed necessary to protect the health, safety or welfare of the general public, as further set forth in Section 4.6.4, Conditions. Such conditions may include, but are not limited to, specifying and requiring the sale and consumption of alcohol to occur within designated areas as prescribed by the City, in its sole discretion, and/or requiring the sale or consumption of alcoholic beverages to occur within fenced or barricaded areas with limited points of entry.

4.6.4 *Conditions.* In approving a special event, the LDR Administrator is authorized to impose such conditions upon the where the special event is to be held and upon the operations of the special event as may be necessary to reduce or minimize any potential adverse impacts upon the surrounding area and to protect the health, safety, and welfare of the general public, as long as the condition relates to a situation caused or created by the proposed special event. The LDR Administrator is authorized, where appropriate, to require:

- (A) Provision of temporary parking facilities, including vehicular access and egress.
- (B) Control of nuisance factors, such as, but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases and heat.
- (C) Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards.
- (D) Provision of sanitary and medical facilities.
- (E) Provision of solid waste collection and disposal.
- (F) Provision of security and safety measures, including but not limited to the provision of extra duty services by local law enforcement.
- (G) Use of an alternative location or date for the proposed special event.
- (H) Modification or elimination of certain proposed activities.
- (I) Regulation of operating hours and days, including limitation of the duration of the special event to a shorter time period than that requested or specified in this subsection.
- (J) Submission of a performance bond or other financial guarantee to ensure that any temporary facilities or structures used for the special event will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition.

4.6.5 *Duration of permit.* A special event permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period

indicated on the permit.

(Ord. No. 10-01, § 3, 10-19-2009; Ord. No. 18-07, § 3(Exh. A), 2-12-2018

Article 5 - DENSITY, INTENSITY, AND DIMENSIONAL STANDARDS

Sec. 5.1. - Dimensional standards tables.

5.1.1 *Dimensional standards in the Conservation and Agricultural Districts.* All primary and accessory structures in the conservation and agricultural zoning districts are subject to the dimensional standards set forth in Table 5.1-1, Table of Dimensional Standards in the Conservation and Agricultural Zoning Districts. These standards may be further limited or modified by other applicable sections of these LDRs. Rules of measurement and permitted exceptions are set forth in Sections 5.2.1, Lots; 5.2.2, Setbacks and required yards; 5.2.3, Height; and 5.2.4, Bulk.

Table 5.1-1. Table of Dimensional Standards in the Conservation and Agricultural Districts

District and Use	Lots [1]		Minimum Yards and Setbacks [2]				Max. Height (ft.)	Max. Lot Coverage (incl. accessory struc- tures)	Max. Gross Density (DU/acre)	
	Min. Area (sq. ft.)	Min. Width (ft.)	Front (ft.)	Side (ft.)	Rear (ft.)	Wetland and Water- course (ft.)				
Conservation District										
All uses	None	None	None	None	None	Sec. 5.2.2(B)	65	None	N/A	
Agricultural District [1]										

Single-family dwellings, group living facilities	5 acres	200	30	25 for each	25	Sec. 5.2.2(B)	65	20%	0.20; 0.50 if homesteaded
Conservation sub-division [1]	None [2]	None	18	None	None			None	For entire subdivision shall not exceed 0.20
All other uses	None	None	30	25 for each	25			20%	N/A
[1] The minimum size for a conservation subdivision development is eight acres, with at least three acres preserved as open space set-aside.									
[2] Individual building lots shall not exceed one acre in size.									
[3] Front setbacks shall be consistent with the definition of "yard, front" as provided in Subsection 5.2.2(A)(7).									

5.1.2 *Dimensional standards in Residential Districts.* All primary and accessory structures in the residential zoning districts are subject to the dimensional standards set forth in Table 5.1-2, Table of Dimensional Standards in the Residential Zoning Districts. These standards may be further limited or modified by other applicable sections of these LDRs. Rules of measurement and permitted exceptions are set forth in Sections 5.2.1, Lots; 5.2.2, Setbacks and required yards; 5.2.3, Height; and 5.2.4, Bulk.

Table 5.1-2. Table of Dimensional Standards in the Residential Zoning Districts

District and Use	Lots		Minimum Yards and Setbacks				Max. Height (ft.)	Max. Lot Cover (incl. accessory structures)	Max. Gross Density (DU/acre) [3]	
	Min. Area (sq. ft.)	Min. Width (ft.)	Front (ft.) [4]	Side (ft.)	Rear (ft.)	Wetland and Water- course (ft.)				
RSF-1										
Dwelling, single-family, detached	40,000	100	30	15 for each	15	Sec. 5.2.2(B)	65	40%	1	
All other uses	None	None	35	25 for each	35			35%	N/A	
RSF-3 (District permitted only in areas with community water and sewer systems)										

Dwelling, single-family detached	10,000	50/75 ¹	20	<u>7.5</u> for each	15	Sec. 5.2.2(B)	65	40%	3
All other uses	None	None	35	25 for existing; 30 for new	35			50%	
RSF-4 (District permitted only in areas with community water and sewer systems)									

Dwelling, single-family, detached	7,500	50	20	<u>7.5</u> for each	15	Sec. 5.2.2(B)	65	45%	4
Dwelling townhouse, and two- to four-family	7,500 per unit for the first 2 units; 2,000 per unit for each addi- tional	50	15	5 for each building side	10			60%	

All other uses	None	None	35	25 for existing; 30 for new	35			60%	
RSF-6 (District permitted only in areas with community water and sewer systems)									

Dwelling, single-family detached	6,000	50	20	<u>7.5</u> for each	15	Sec. 5.2.2(B)	65	50%	6
Dwelling, single-family attached, townhouse, and two- to four-family	6,000 per unit for first 2 units; 2,000 per unit for each addi- tional	40	15	5 for each building side	10			60%	

All other uses	None	None	35	25 for existing; 30 for new	35			60%	
RMH-5									

Dwelling, mobile home	7,500 with public utilities; 20,000 without public utilities	50 with public utilities; 100 without public utilities	20	<u>7.5</u> for each	15	Sec. 5.2.2(B)	65	40%	5 with public utilities; 2 without public utilities
All other uses	None	None	35	25 for each	35				35%; 40% for manufac- tured homes
RMH-P									

Mobile home park ¹ , dwelling, mobile home	10 acres	400 for site; for park site;	35 at site perim.; 20 between	25 at site perim.; 20 between	15	Sec. 5.2.2(B)	65	30%	8
	5,445 per DU;	40 average for park stand	homes and from access drives	homes and from access drives	15				
	3,500 per park stand				15				
					15				
					15				
					15				
All other uses	None	None	35	25 for each	35			35%	N/A
RMF-8									

Dwelling, single-family detached	6,000	50	20	<u>7.5</u> for each	15	Sec. 5.2.2(B)	65	40%	8
Dwelling, single-family attached, townhouse, and two- to four- family	10,000	40	15	5 for each building side	10				
Dwelling, multiple-family, group living	16,335 for site	80	30 at site perim.	15 at site perim.; 20 between build- ings	20 at site perim.				
All other uses	None	None	35	25 for each	35				
RMF-15									

Dwelling, single-family detached	5,000	50	20	<u>7.5</u> for each	15	Sec. 5.2.2(B)	65	40%	15
Dwelling, single-family attached, townhouse, and two- to four- family	5,000	40	15	5 for each building side	10				
Dwelling, multiple-family, group living	16,335 for site	80	30 at site perim.	15 between building and lot line; 20 between build- ings	20 at site perim.				
All other uses	None	None	35	25 for each	35				
PD-R									

See Section 3.6.3(A)

- [1] Minimum lot area and width standards may be reduced to the minimum extent necessary in the RSF-4, RSF-6, RMF-8, and RMF-15 districts to accommodate deed-restricted affordable housing units.
- [2] Minimum yards and setbacks may be reduced to the minimum extent necessary in the RSF-4, RSF-6, RMF-8, and RMF-15 districts to accommodate deed-restricted affordable housing units.
- [3] Maximum gross residential density may be increased by up to 20 percent in the RSF-6, RMF-8, and RMF-15 districts to accommodate deed-restricted housing units designated as affordable for low income residents.
- [4] Front setbacks shall be consistent with the definition of "yard, front" as provided in Subsection 5.2.2(A)(7).

¹ Note. Where the use of transitional swales is proposed for subdivisions with lots between 10,000 square feet and 20,000 square feet the minimum lot width shall be 75 feet.

² Note. There are also use-specific regulations for such parks found in [Article 4](#).

5.1.3 *Dimensional standards in Business Districts.* All primary and accessory structures in the business zoning districts are subject to the dimensional standards set forth in Table 5.1-3, Table of Dimensional Standards in the Business Zoning Districts. These standards may be further limited or modified by other applicable sections of these LDRs. Rules of measurement and permitted exceptions are set forth in Sections 5.2.1, Lots; 5.2.2, Setbacks and required yards; 5.2.3, Height; and 5.2.4, Bulk.

Table 5.1-3. Table of Dimensional Standards in the Business Zoning Districts

District and Use	Lots		Minimum Yards and Setbacks				Max. Height (ft.)	Max. Lot Coverage (incl. accessory struc- tures) [1]	Max. FAR [2]	Max. Gross Residential Density (DU/acre)	
	Min. Area (sq. ft.)	Min. Width (ft.)	Front (ft.)	Side (ft.)	Rear (ft.)	Wetland and Water- course (ft.)					
OR											

Dwelling, single-family detached	6,000	50	20	<u>7.5</u> for each	15	Sec. 5.2.2(B)	65	40%	N/A	5
Dwelling, single-family attached, townhouse, two-to four-family, and multiple-family	10,000	40	15	5 for each building side	10					
Public and institutional uses	None	None	35	25 for each	35			35%	None	N/A
All other uses			30	20 for each	20					
CN										
Public and institutional uses	None	None	20	10 for each	15	Sec. 5.2.2(B)	65	40%	Lesser of that provided in note [2] or 10,000 sq. ft.	None
All uses			25							
CC										

All uses	None	None	20	None	15	Sec. 5.2.2(B)	65	None	See note [2]	None
CBD										
All uses	None	None	None	None	None	Sec. 5.2.2(B)	65	None	See note [2]	None
CI [3]										
All uses	None	None	20	None	15	Sec. 5.2.2(B)	65 See note [8]	None	See note [2]	None
ILW										
All uses	None	None	20	15, except where railroad spur abuts side or rear property line, then none		Sec. 5.2.2(B)	65	None	See note [2]	None
CP [4]										

Dwelling, single-family detached	3,500 See note [6]	40 See note [6]	20 See note [7]	5 for each See note [7]	10 See note [7]	Sec. 5.2.2(B)	65	60%	N/A	4
Dwelling, single-family attached, townhouse, and multiple-family	2,700 See note [6]	30 See note [6]	10 See note [7]	5 for each building side See note [7]	10 See note [7]					
Cottage home	2,700 See note [6]	30 See note [6]	5 See notes [7], [9]	5 for each building side See note [7]	10 See notes [7], [9]		35	70%		

All other uses	None	None	20	15, except where railroad spur abuts side or rear property line, then none	100 See note [8]	None	See note [8]	N/A	
IG									
All uses	None	None	20	15, except where railroad spur abuts side or rear property line, then none	Sec. 5.2.2(B)	65	None	See note [2]	N/A
GF									
All uses	None	None	20	15, except where railroad spur abuts side or rear property line, then none	Sec. 5.2.2(B)	65	None	See note [2]	N/A
PD-EC									
See Section 3.6.3(C).									

PD-TND

See Section 3.6.3(B).

PD-COMM

See Section 3.6.3(D).

Notes:

[1] The maximum lot coverage in the OR district may be increased up to 65 percent by the provision of three or more upper story dwelling units above retail or office uses, provided such units are deed-restricted as affordable housing for low income residents. The maximum lot coverage for cottage homes shall be measured over the entire cottage neighborhood, not individual lots.

[2] The building square footage occupied by upper story dwelling units that are deed-restricted as affordable housing for low income residents shall not be counted towards the maximum FAR. Floor area ratios for business districts are as follows: 0.5 FAR for parcels five acres or greater; 0.75 FAR for parcels less than five acres, but greater than one acre; 1.0 FAR for parcels one acre or less.

[3] Minimum lot area, minimum lot width, minimum yard, and minimum setback standards may be reduced by up to 75 percent in the CI Districts to accommodate deed-restricted affordable housing units.

[4] Residential uses in the CP District shall be consistent with the criteria specified in Section 3.5.2(F).

[5] Front setbacks shall be consistent with the definition of "yard, front" as provided in Subsection 5.2.2(A)(7).

[6] Lot dimensional standards apply only to individual platted lots.

[7] Building setbacks apply only to individual platted lots or if no platting is proposed, the setback standards apply to the project perimeter. However, all building separation requirements specified in the Florida Building Code are applicable. As used within Table 5.1-3, "project" shall mean all contiguous land zoned CP.

[8] The maximum height for structures in the CI and CP zoning districts may be increased up to a maximum of 200 feet using the Special Exception process consistent with the applicable standards found in Sections 2.4.4(D) and 5.2.3(B)).

[9] If a garage is provided, then the garage face shall be set back a minimum 20-feet to prevent parked vehicles from blocking the sidewalk.

(Ord. No. 09-29, § 3(5.1.2), 9-28-2009; Ord. No. 12-06, § 3, 1-23-2012; Ord. No. 13-06, § 3, 5-6-2013; Ord. No. 13-12, § 3, 8-12-2013; Ord. No. 19-25, § 2(Exh. A), 5-20-2019; Ord. No. 19-31, § 3(Exh. A), 7-22-2019; Ord. No. 22-01, § 3(Exh. A), 10-11-2021)

Sec. 5.2. - Measurements and exceptions.

5.2.1 *Lots.*

(A) *Definitions/measurement.*

- (1) *Lot area.* Lot area means the amount of land area, measured horizontally, included within the lines of a lot. Public rights-of-way, parks, open space or schools shall not be included in calculating lot area, except where specifically allowed by these LDRs.
- (2) *Lot frontage.* Lot frontage means the portion of a lot along a street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as set out in these LDRs.
- (3) *Lot line.* Lot lines mean the lines bounding a lot as established by ownership.
- (4) *Lot depth.* Lot depth means the distance between the midpoints of straight lines connecting the foremost points on the side lot lines in the front and the rearmost points of the side lot lines in the rear.
- (5) *Lot width.* Lot width means the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the side lot lines at the building setback line and the rear most points of the side lot lines in the rear, provided however, that the width between the side lot lines at their foremost points in the front shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the width shall not be less than 60 percent of the required width.
- (6) *Lot types.* Lot types mean corner lots, interior lots, reversed frontage lots, and through lots.
 - (a)

Corner lot means a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

- (b) *Interior lot* means a lot other than a corner lot with only one frontage on a street.
- (c) *Through lot* means a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as "double frontage lots."
- (d) *Reversed frontage lot* means a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot, or a through lot

(B) *General lot requirements.*

- (1) *Minimum lot dimensions.* Any lot that is developed shall meet the minimum lot area, width, and coverage standards established in Sections 5.1.1, Dimensional standards in the conservation and agricultural districts; 5.1.2, Dimensional standards in residential districts, and 5.1.3; Dimensional standards in business districts, for the zoning district in which it is located, except as otherwise established by these LDRs for particular uses.
- (2) *Homesteaded lots.* (Commentary—Some concerns have been raised about the ability of the City to effectively administer and enforce the existing homestead provision that allows a person owning land in the Agricultural District to convey small lots (lots smaller than the minimum five-acre requirement) to family members. One of the persistent problems City staff has had to deal with under the existing regulation is that individual small lots are conveyed to a family member under the provision, by a metes and bounds description, and then resold to nonfamily members, who then come in and request a building permit for a single-family home to build on a lot that fails to comply with minimum lot requirements; in the past, these nonfamily members have been denied their building permit requests based upon the nonconforming lot size.) The key standards in the review that would have to be demonstrated by an applicant before a homestead parcel is approved would include:
 1. The parcel is a legal lot of record as of January 22, 1992, the effective date of the 2015 Comprehensive Plan;
 2. The parcel is in the A district and has a similar designation on the FLUM of the Comprehensive Plan;
 3. The parent parcel is of adequate size to meet the minimum five acre lot size requirement of the A district after the homestead lot is created;
 4. The applicant has not received approval for a homestead parcel in the preceding three years;
 5. The applicant is conveying the homesteaded portion of the parent parcel to an immediate family member (for the purposes of this section, an applicant's immediate family shall be limited to: a grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child, or grandchild), and that family member intends to use the parcel for a residence for a minimum period of 12 months from the date of occupancy;
 6. The parent parcel has not been subdivided using the homestead exception process more than a total of three times;
 7. The homestead parcel is at least two acres in size, and meets specified setback and yard requirements for the A district;
 8. Development on the homesteaded parcel is limited to one single-family home and any accessory uses allowable within the A district;

9. The parcel has access to a public road, either from a public street, private street, or private access easement;
10. The maximum density standards of the LDRs for the A district is applied to both the parent parcel and the homestead parcel as though they were a single parcel of land (even though a single-family home is allowed on the homestead parcel). If a single-family home on the homestead parcel results in the density on the parent and homestead parcels, when considered together, to exceed the maximum allowable density for the A district, then the parent parcel cannot add additional residential development;
11. The applicant demonstrates, through the submission of a plan for the homestead lot, the following:
 - a. The homestead lot will not cause significant parcel fragmentation;
 - b. The homestead lot is consistent with the Comprehensive Plan;
 - c. The homestead lot complies with the relevant development standards in the LDRs;
12. Documentation is recorded that the homesteaded parcel is an approved homestead exception, and subject to all conditions of approval imposed by the BOA.

With the adoption of a procedure for granting of homestead exceptions, there would be no limitations on the sale or conveyance on an approved homestead lot.

- (3) *Erection of more than one principal structure on a platted lot.* Whenever any land is subdivided, a building permit for the construction of a building or other principal structure (excluding commercial buildings under common ownership or unified control) shall not be issued unless the land is subdivided pursuant to the procedures and standards of these LDRs.
- (4) *Lots divided by district lines.* Whenever a single lot is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located.

5.2.2 Setbacks and required yards.

(A) Definitions of measurement.

- (1) *Building line* means the rear edge of any required front yard or the rear edge of any required setback line.
- (2) *Building front yard setback line* means the rear edge of any required front yard as specified within these LDRs.
- (3) *Right-of-way* means land dedicated, deeded, used, or to be used for a street, road, alley, pedestrian way, crosswalk, bikeway, drainage facility, or other public uses, wherein the owner gives up rights to the land so long as it is being or will be used for the dedicated purpose. Right-of-way also is a land measurement term, meaning the distance between lot property lines which generally contain not only the street pavement, but also the sidewalk, grass area, and underground or aboveground utilities.
- (4)

Wetland means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. The delineation of wetlands has been defined by the uniform statewide methodology adopted by the Florida Department of Environmental Protection and Water Management Districts as outlined in Rule 62-340, Florida Administrative Code, as the rule exists on January 1, 2001. The City shall not be limited by the threshold or connection requirements utilized by these agencies for purposes other than delineation. Standards for wetlands setbacks can be found in the current City of Alachua Comprehensive Plan conservation element policies 1.10g and 1.10f.

- (5) *Watercourse* means any natural or artificial channel, ditch, canal, stream, river, creek, waterway or wetland through which water flows in a definite direction, either continuously or intermittently and which has a definite channel, bed, bank, or other discrete boundary. Surface water setbacks can be found in the current City of Alachua Comprehensive Plan conservation element policy 1.12.d.
- (6) *Yard* means a required area unoccupied and unobstructed from the ground upward, provided however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard, subject to height limitations and requirements limiting obstruction of visibility.
- (7) *Yard, front.*
 - (a) *Definitions.* The term "front yard" means the area between the front lot line adjoining a street and any building elevation, extending to any side or rear lot line.
 - (b) *Through lots.* In the case of through lots, unless the prevailing front yard pattern on adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the LDR Administrator may waive the requirement for the normal front yard and substitute a special yard requirement that shall not exceed the average of the yards provided on adjacent lots.
 - (c) *Corner lots.* Solely for the purpose of determining setbacks of corner lots and reverse frontage lots, a front yard setback shall be required on the road frontage facing the primary building's front building facade. For all other frontages, the required front yard setback shall not be less than the minimum side yard setback and shall not conflict with existing public utility easements. In the CC and CI zoning districts, the yard setback on a road frontage shall be no less than five feet.
- (8) *Yard, front, depth required,* means an area measured at right angles to a straight line joining the foremost points of the side lot lines. In the case of corner lots, an area along road frontages measured at right angles to the foremost point of any adjoining side or rear lot line. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the front lot lines and adjoining side or rear lot lines would have met without such rounding.
- (9) *Yard, side,* means the area between the side lot line and the side building elevation, not including front yards or rear yards.
- (10)

Yard, side, depth required, means an area measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

- (11) *Yard, rear*, means the area between the rear lot line and the rear building elevation. In the case of through lots, there will be no rear yards, but only front and side yards.
- (12) *Yard, rear, depth required*, means an area measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.
- (13) *Yard, waterfront*, means a yard measured from and parallel to the mean high-water mark of the lake, stream, or other watercourse on which the lot is located.

(B) *General setback requirements*.

- (1) *Setback from wetlands and watercourses*.
 - (a) *Wetlands setbacks*. The City shall require natural vegetative buffers around wetlands to protect the fragile ecosystems they sustain. Buffers, measured from the outer edge of the wetland shall be created as established by Policy 1.10h, Comprehensive Plan conservation element. Alternative buffers may be considered in accordance with Policy 1.10h, Comprehensive Plan conservation element.
 - (b) *Surface water setbacks*. The City shall require buffers for development along surface water bodies. Buffers shall be measured from the outer edge of the water body, and created as established in Policy 1.12d, Comprehensive Plan conservation element. Alternative buffers may be considered in accordance with Policy 1.12e, Comprehensive Plan conservation element.
- (2) *Special right-of-way requirements*.
 - (a) *Arterial and collector roads*. For all new arterial and collector roads, extra right-of-way, as provided within the Florida Department of Transportation Bicycle Facilities Planning and Design Handbook, shall be provided for integrated or parallel bicycle ways or lanes.
 - (b) *Setback from collector and arterial roads*. All new structures shall provide a minimum setback of 75 feet as measured from the centerline of the right-of-way for new or realigned collector or arterial roads.
- (3) *Accessory use locations*. Accessory uses and structures shall meet the requirements specified in Section 4.4.2(E), Location of accessory buildings, structures, or vehicles.
- (4) *Fences, walls and hedges*. Notwithstanding other provisions of these LDRs, fences, walls, and hedges may be permitted in any required yard or along the edge of any yard; provided that no solid fence, solid wall, or hedge located within the required front yard shall constitute an obstruction to visibility between 2.5 and eight feet above the centerline grade of the adjacent street.
- (5) *Sight triangles*. Uses and structures shall be set back in accordance with the standards in Section 7.2.6, Visibility clearance.

(C) *Allowable yard encroachments*. Every part of every required yard shall be open and unobstructed from the ground to the sky except as provided in the table

below or as otherwise permitted in these LDRs:

Table 5.2-1. Allowable Yard Encroachments

Feature	Limitation
Sills and belt courses	Shall not project over 12 inches into a required yard
Movable awnings	Shall not project over three feet into a required yard, provided that where the yard is less than five feet in width, the projection shall not exceed one-half of the width of the yard
Chimneys, fireplaces, bay windows or pilasters	Shall not project more than two feet into a required yard
Fire escapes, stairways and balconies (unenclosed)	Shall not project more than five feet into a required yard, or more than three feet into a required yard for a multiple-family dwelling, hotel, or motel
Hoods, canopies, roof overhang, or marquees	Shall not project over three feet into a required yard, and shall come no closer than one foot to the lot line
Fences, walls and hedges	Permitted in yards subject to the requirements of this section
Cornices, eaves and gutters	Shall not project more than three feet into a required yard, provided that where the yard is less than six feet in width, the projection shall not exceed one-half the width of the yard

5.2.3 Height.

(A) Definitions/measurements.

- (1) *Building height* means the vertical distance measured from the finished floor elevation of a building to the highest point of the roof surface of a flat roof, to the deck line of a mansard or Bermuda roof, to the mean height level between eaves and ridge of gable, hip, cone, gambrel and shed roofs, and to a height

three-fourths of the distance from the ground to the apex of A-frame and dome roofs, as depicted in the diagram below.

(2) *Exclusions from height limitations*, included in Sections 5.1.1 through 5.1.3, do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, elevator shaft enclosures, airport control towers, observation towers or other appurtenances usually required to be placed above the roof level and, excepting airport control towers and observation towers, not intended for human occupancy; however, the heights of these structures or appurtenances thereto shall not exceed any height limitations prescribed by the Federal Aviation Administration.

(3) *Grade* means the level of the finished ground surface immediately adjacent to the exterior walls of a building.

(B) *Special height requirements in the CI and CP zoning districts.*

- (1) All structures that are not excluded from height limitations in Section 5.2.3(A)(2) shall comply with the maximum height requirements found in Table 5.1-3.
- (2) Any proposed increase in height above the permitted maximum shall require a special exception permit, which must demonstrate consistency with the special exception standards found in Section 2.4.4(D) and the additional standard below:
 - (a) The proposed structure shall not be located within 100 feet of a property boundary of a residential zoning district or a single-family or two-family use.

5.2.4 *Bulk.*

(A) *Definitions of measurements.*

- (1) *Density, gross residential*, means the number of residential dwelling units permitted per gross acre of land and is determined by dividing the number of units by the total area of land within the boundaries of a lot or parcel including dedicated rights-of-way except as otherwise provided for in these LDRs. In the determination of the number of residential units to be permitted on a specific parcel of land, a fractional unit shall not entitle the applicant to additional units.
- (2) *Density, net residential*, means the total number of dwelling units on a particular tract or parcel of land, not taking into account lands used for open space, rights-of-way, or other nonbuildable areas of the tract or parcel.
- (3) *Lot coverage* means the percentage of the lot covered by buildings and all other impervious surfaces including accessory structures. It is calculated by dividing the square footage of all buildings and impervious surfaces, as measured from the outside of the structures at ground level, by the lot area.
- (4) *Floor area* means, except as may be otherwise indicated in relation to particular districts and uses, the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, excluding attic areas with a headroom of less than seven feet, unenclosed stairs or fire escapes, elevator structures, cooling towers, areas devoted to air conditioning, ventilating or heating or other building machinery and equipment, parking structures and basement space where the ceiling is not more than 48 inches above the general finished and graded level of the adjacent part of the lot.
- (5) *Floor area ratio* means the ratio of floor area to the size of the lot.

(Ord. No. 13-12, § 3, 8-12-2013; Ord. No. 19-31, § 3(Exh. A), 7-22-2019)

Article 6 - DEVELOPMENT STANDARDS

Sec. 6.1. - Off-street parking and loading standards.

6.1.1 *Purpose and intent.* It is the purpose and intent of these LDRs that the public health, safety, and welfare requires development be provided with adequate off-street parking facilities for the use of occupants, employees, visitors, customers, or patrons. It is also the purpose and intent of these LDRs that the public health, safety, and welfare require that certain uses provide adequate off-street loading facilities. All required off-street parking and off-street loading facilities shall be maintained and continued as long as the development continues.

6.1.2 *Applicability.*

- (A) *Generally.* The provisions of this Section 6.1, Off-street parking and loading standards, shall apply to all development within the City.
- (B) *Time of compliance; plan required.* A plan shall be submitted with an application for a site and development plan (Section 2.4.9, Minor site plans, site plans, and infrastructure plans), subdivision (Section 2.4.10, Subdivision), planned development (Section 2.4.3, Planned development), or building permit, whichever occurs first, for any development or change in use that is required to provide off-street parking in accordance with this section. The plan shall accurately designate the required parking spaces, access aisles, and driveways, and the relation of the off-street parking facilities to the uses or structures such facilities are designed to serve.

6.1.3 *General standards for off-street parking and loading.*

- (A) *Development in existence on February 27, 2006.*
 - (1) *No enlargement in floor area.* Development in existence on February 27, 2006, that is altered or remodeled is not required to provide additional off-street parking or off-street loading facilities if the floor area is not increased.
 - (2) *Enlargement in floor area.* Development in existence on February 27, 2006, that is enlarged in floor area, shall provide the off-street parking and off-street loading facilities required by the standards of this section for the floor area added to the development.
 - (3) *Change in use.* Development in existence on February 27, 2006, in which there is a change in use shall comply with the standards of this section (provide additional off-street parking or loading facilities if there is a difference between the off-street parking or off-street loading facilities required by this section and the off-street parking and loading facilities on site prior to the change in use).
- (B) *Off-street parking not used for sales or display, dead storage, repair, dismantling, or servicing.* Required off-street parking facilities shall not be used for sales or display, dead storage, repair, dismantling or servicing of any type or kind, nor shall areas devoted to such uses be used to comply with the off-street parking standards of this section.
- (C) *Off-street parking in required yards.* Unless otherwise specified and subject to meeting required landscape buffer standards (Section 6.2), all required yards may be used for off-street parking.

- (D) *Identified as to purpose and location.* Required off-street parking and off-street loading standards shall be identified as to purpose and location when not clearly evident. Paved public parking areas shall include painted lines, bumper stops, or other methods of identifying individual parking spaces and distinguishing such spaces from aisleways.
- (E) *Surfacing of off-street parking.*
- (1) *Generally.* Required off-street parking and off-street loading areas shall, at a minimum, be surfaced with structurally adequate asphaltic concrete or concrete surface course, and maintained in a smooth, well-graded condition (driveways, access aisles, and parking spaces for all public and private schools offering academic courses may be surfaced with grass or lawn).
- (2) *Spaces that exceed minimum standards.* Where the number of off-street parking spaces provided exceeds the minimum number required by Table 6.1-1, Minimum Off-Street Parking Standards, any additional spaces may be surfaced with alternative surfacing materials. In all cases where alternative surfacing materials are used, such parking spaces shall be located further from the primary pedestrian entrance to the primary structure than those parking spaces paved with impervious materials.
- (3) *Alternative surfacing materials.* The LDR Administrator may approve the use of pervious or semi-pervious parking area surfacing materials, including but not limited to grass, semipervious concrete block planted with grass, gravel, crushed stone, and recycled materials such as glass, rubber, used asphalt, brick, block and concrete for off-street parking spaces which exceed the minimum standards, provided that such areas are properly maintained. Where possible, such materials should be used in areas proximate to and in combination with on-site stormwater control devices.
- (F) *Drained to avoid nuisances.* Required off-street parking shall be drained so as not to cause any nuisance on adjacent property.
- (G) *Lighted to prevent glare.* Required off-street parking shall be lighted to prevent glare or excessive light on adjacent property, in accordance with [Section 6.4](#), Exterior lighting standards.
- (H) *Arrangement.* Required off-street parking shall be arranged for convenient access and safety of pedestrians and vehicles.
- (I) *Curb breaks.* Required off-street parking shall be designed to conform to curb break requirements. (See Section 7.3.1, Streets.)
- (J) *Arranged so no vehicles back onto streets.* Required off-street parking shall be arranged so no vehicle shall be required to back from such facilities directly onto public streets.
- (K) *Curbs and motor vehicle stops.* Required off-street parking shall be designed to provide curbs or motor vehicle stops or similar devices to prevent vehicles from overhanging on or into public right-of-way or adjacent property.
- (L) *Maintained in good repair.* Required off-street parking shall be maintained in good repair, and in safe condition at all times, so as not to constitute a hazard to public safety or a visual or aesthetic nuisance to surrounding properties.
- (M) *Portions not apply to one- and two-family dwellings.* The design, construction, and arrangement requirements set forth in this section for off-street parking and off-street loading facilities do not apply to one- and two-family (duplex) dwellings.
- (N)

Large retail establishments. Off-street surface parking serving a large retail establishment shall be located and configured in accordance with the standards of this section and Section 6.8.3(D), Off-street parking.

6.1.4 Off-street parking standards.

(A) Location.

- (1) *General requirements.* Unless established in accordance with Subsection 6.1.11 of this section, Alternative compliance, all required off-street parking facilities shall be located on the same lot or parcel of land they are intended to serve. Required off-street parking areas for three or more automobiles shall be designed, maintained, and regulated so that no parking or maneuvering incidental to parking shall be on a public street or walk, and so that an automobile may be parked and unparked without moving another automobile.
- (2) *Exception.* Notwithstanding Subsection 6.1.4(A)(1) of this section, the Board of Adjustment may allow the establishment of off-street parking facilities within 300 feet of the premises they are intended to serve when:
 - (a) Practical difficulties prevent the placing of the facilities on the same lot as the premises they are designed to serve;
 - (b) The owner/developer of the parking area enters into a written agreement with the City, with enforcement running to the City, providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building that the parking area serves, so long as the facilities are required; and
 - (c) The owner/developer agrees to bear the expense of recording the agreement and agrees that the agreement shall be voided by the City if other off-street facilities are provided for the development in accordance with the requirements of this section.

(B) Amount required.

- (1) *Minimum off-street parking required.* All development allowed in accordance with Table 4.1-1, Table of Allowed Uses, shall provide at least the minimum amounts of off-street parking shown in the following Table 6.1-1, Minimum Off-Street Parking Standards:

Table 6.1-1. Minimum Off-Street Parking Standards

Use Category	Use Type	Parking Standards
RESIDENTIAL USES		

Household living	Cottage neighborhood	<u>1.5</u> spaces per cottage home
	Dwelling, live/work	<u>1.5</u> spaces per unit
	Dwelling, manufactured home	2 spaces per unit
	Dwelling, mobile home	2 spaces per unit
	Dwelling, multiple-family	1 space per efficiency unit; <u>1.5</u> spaces per 1- or 2-bedroom unit; 2 spaces per 3-bedroom or more unit
	Dwelling, single-family attached	2 spaces per unit
	Dwelling, single-family detached	2 spaces per unit
	Dwelling, townhouse	2 spaces per unit
	Dwelling, two- to four-family	2 spaces per unit
	Manufactured home park	2 spaces per lot
	Upper story dwelling	<u>1.5</u> spaces per unit

Group living	Co-housing	2 spaces per unit
	Community residential home (6 or fewer residents)	1 space per 3 resident beds
	Community residential home (7-14 residents)	1 space per 3 resident beds plus 1 space per 3 employees, plus 1 space per vehicle serving the facility
	Dormitory	1 space per 2 resident beds
	Group home (15 or more residents)	1 space per 3 resident beds plus 1 space per 3 employees, plus 1 space per vehicle serving the facility
	Roominghouse	1 space for each bedroom
PUBLIC AND INSTITUTIONAL USE		
Community services	Community center	1 space per 300 sq. ft. floor area
	Cultural facility	1 space per 1,000 sq. ft. of floor area in museums; 1 space per 300 sq. ft. of floor area for all others
	Library	1 space per 300 sq. ft. of floor area
	Senior center	1 space per 3 persons design capacity
	Youth club facility	1 space per 300 sq. ft. floor area

Day care	Adult care center	1 space per 200 sq. ft. floor area
	Child care center	1 space for each 300 sq. ft. of floor area devoted to child care activities
	Day care home (up to and including 6 persons)	3 spaces
	Overnight child care center	1 space for each 300 sq. ft. of floor area devoted to child care activities
Educational facilities	College or university	Each structure shall meet the requirements for the most similar primary use in this table (i.e., office, dormitory, etc.) Classroom buildings shall provide 1 space per 5 seats of seating capacity
	School, elementary or middle	Elementary: 10 spaces plus 1 space per employee
		Middle: 40 spaces plus 1 space per employee
	School, high	1 space per employee, plus 1 space per 3 students in grades 10 through 12
	Vocational school	1 space per 2 students design capacity
Government facilities	Government maintenance, storage, and distribution facility	1 space per employee on largest shift
	Government office	1 space per 330 sq. ft. floor area
	Post office	1 space per 200 sq. ft. floor area

Health care facilities	Birth center	1 space per 200 sq. ft. floor area
	Blood collection facility	1 space per 200 sq. ft. floor area
	Hospital	<u>1.5</u> per bed
	Medical and dental clinic	1 space per 200 sq. ft. floor area
	Medical and dental lab	1 space per 300 sq. ft. floor area
	Outpatient facility	1 space per 300 sq. ft. floor area

Institutions	Assisted living facility	1 space per 3 resident beds, plus 1 space per 3 employees, plus 1 space per vehicle serving the facility
	Auditorium	1 space per 3 seats capacity
	Convention center	1 space per 300 sq. ft. gross floor area
	Drug and alcohol treatment facility	1 space per 200 sq. ft. floor area
	Nursing home	1 space per 5 beds
	Psychiatric treatment facility	1 space per 3 beds
	Religious institution with seating capacity less than 300 in sanctuary or main activity area	1 space per each 6 seats in worship area; or 1 space per 40 square feet of worship area without seats
	Religious institution, with seating capacity of 300 or greater in sanctuary or main activity area, or with accessory schools, day care centers with more than 50 children, or recreational facilities	1 space per each 6 seats in worship area; or 1 space per 40 square feet of worship area without seats

Parks and open areas	Arboretum	1 space per employee
	Botanical garden	1 space per 1,500 sq. ft. enclosed area
	Cemetery, columbaria, mausoleum	1 space per employee
	Community garden	1 space per 1,500 sq. ft. area
	Golf course, public	4 spaces per hole
	Park, private and public	None
	Public square	None
	Recreational trail	None
	Resource-based recreation uses, nonintensive	None
	Resource-based recreation uses	None
Public safety	Fire and EMS	1 space per employee on largest shift
	Police station	1 space per employee on largest shift
	Substation for fire and City police	1 space per employee on largest shift

Transportation	Airport	1 space per 300 sq. ft. floor area in terminal
	Airplane landing strip	3 spaces per runway
	Helicopter landing facilities	3 spaces per landing pad
	Passenger terminal, surface transportation	1 space per 200 sq. ft. floor area
Utilities	Wireless communication tower and/or antenna, freestanding	None
	Wireless communication antenna, collocation on existing tower	None
	Wireless communication antenna, placement on existing business use or multifamily	None
	Railroad right-of-way	None
	Utility, major	1 space per employee on largest shift
	Utility, minor	None
AGRICULTURE USES		
Agriculture	General use category	None
Animal husbandry	General use category	None
Horticulture	General use category	None

Agriculture support and services (directly related)	Agricultural processing	1 space per 1,500 sq. ft. floor area
	Agri-education	1 space per 1,000 sq. ft. floor area
	Agri-entertainment	1 space per 1,000 sq. ft. floor area
	Custom operator	1 space per employee on largest shift
	Direct market business for sale of products produced on site, including but not limited to produce stands or pick-your-own (PYO) establishments	3 spaces
	Equestrian facility	1 space per 1,500 sq. ft. floor area
	Farm co-op	None
	Farm machinery repair	1 space per 1,000 sq. ft. floor area or outdoor repair area
	Farm market	1 space per 200 sq. ft. floor area
	Farm produce stand	None
	Feedlot (for ongoing, on-site animal husbandry activities)	1 space per employee on largest shift
	Nursery, commercial	1 space per 300 sq. ft. floor area plus 1 space per 1,000 sq. ft. outdoor nursery lot
	Nursery, production	1 space per employee on largest shift
	Pet farm	1 space per 1,500 sq. ft. floor area

	Sawmill	1 space per employee on largest shift
	Stable	1 space per 1,500 sq. ft. floor area
Agriculture support and services (not directly related)	Agricultural research facility	1 space per 800 sq. ft. floor area
	Animal care business	1 space per 400 sq. ft. floor area, plus 1 space per 1,000 sq. ft. of outdoor care area
	Auction arena for livestock	1 space per 350 sq. ft. of floor area, plus 1 space for each 1,000 sq. ft. of outdoor auction area
	Central farm distribution hub for agricultural products	1 space per 6,000 sq. ft. floor area
	Equestrian facility	1 space per 1,500 sq. ft. floor area
	Fairgrounds	1 space per 3 seats in largest assembly area with fixed seating
	Farm machinery repair	1 space per 1,000 sq. ft. floor area or outdoor repair area
	Farm machinery sales, rental, and service	1 space per 350 sq. ft. of floor area, plus 1 space for each 1,000 sq. ft. of outdoor sales or display area
	Stable	1 space per 1,500 sq. ft. floor area

Animal sales, service and care	Animal hospital	1 space per 200 sq. ft. floor area
	Animal shelter	1 space per 300 sq. ft. floor area
	Animal grooming	1 space per 300 sq. ft. floor area
	Kennel, indoor	1 space per 300 sq. ft. floor area
	Kennel, outdoor	1 space per 400 sq. ft. floor area
	Veterinary clinic	1 space per 200 sq. ft. floor area
BUSINESS USES		
Eating establishments	Ice cream shop	1 space per 150 sq. ft. floor area/designated outdoor seating area
	Restaurant, indoor seating only	1 space per 100 sq. ft. floor area
	Restaurant, with outdoor seating	1 space per 100 sq. ft. floor area/designated outdoor seating area
	Restaurant, with drive-through or drive-in service	1 space per 150 sq. ft. floor area/designated outdoor seating area
	Specialty eating establishment	1 space per 150 sq. ft. floor area/designated outdoor seating area

Conference and training centers	Conference center	1 space per 3 seats
	Rural agricultural corporate retreat	1 space per 3 seats
Industrial services	Building, heating, plumbing, or electrical contractors	1 space per 1,000 sq. ft. floor area
	Electric motor repair	1 space per 400 sq. ft. floor area
	Fuel oil distributor	1 space per 1,500 sq. ft. floor area
	General industrial service	1 space per 1,500 sq. ft. floor area
	Heavy equipment sales, rental or repair	1 space per 1,000 sq. ft. floor area
	Laundry, dry cleaning, and carpet cleaning facilities	1 space per 500 sq. ft. floor area
	Machine shop	1 space per 400 sq. ft. floor area
	Repair of scientific or professional instruments	1 space per 400 sq. ft. floor area
	Tool repair	1 space per 400 sq. ft. floor area
Manufacturing and production	Manufacturing, heavy	1 space per 1,000 sq. ft. floor area
	Manufacturing, light	For offices, laboratories, and areas supporting offices and laboratories: 1 space per 350 sq. ft. floor area; For all other areas: 1 space per 1,000 sq. ft. floor area
	Medical radioisotope laboratory	1 space per 1,000 sq. ft. floor area

Offices	Business services	1 space per 330 sq. ft. floor area
	Financial services	1 space per 330 sq. ft. floor area
	Professional services	1 space per 330 sq. ft. floor area
	Radio and television broadcasting studio	1 space per 330 sq. ft. floor area
	Sales	1 space per 330 sq. ft. floor area
Parking, commercial	Parking lot	None
	Parking structure	None
Recreation/ entertainment, indoor	Banquet hall	1 space per 300 sq. ft. floor area, or 1 space per 3 seats
	Commercial recreation, indoor	1 space for each 350 sq. ft. floor area
	Neighborhood recreation center	1 space per 3 persons design capacity
	Private club or lodge with seating capacity of less than 300 in main activity area	1 space for 300 sq. ft. floor area
	Private club or lodge, with seating capacity of 300 or greater in main activity area	1 space for 300 sq. ft. floor area
	Theater (less than 500 seats)	1 space for every 4 seats
	Theater (500 seats or more)	1 space for every 3 seats

Recreation/ entertainment, outdoor	Archery range	1 space per archery station
	Arena, auditorium, or stadium	1 space per 3 seats capacity
	Commercial recreation, outdoor	1 space per participant station or stand, plus 1 space per 500 sq. ft. floor area
	Golf course, private	4 spaces per hole per course

Retail sales and services	Auction house	1 space per 350 sq. ft. of floor area, plus 1 space for each 1,000 sq. ft. of outdoor auction area
	Bar, nightclub or cocktail lounge	1 space per 75 sq. ft. floor area
	Convenience store	1 space per 150 sq. ft. floor area
	Crematory	1 space for each 3 seats in the chapel
	Department or discount store	Up to 300,000 sq. ft.: 1 space per 305 sq. ft. floor area; 300,001 to 600,000 sq. ft.: 1 space per 285 sq. ft. floor area; over 600,000 sq. ft.: 1 space per 265 sq. ft. floor area
	Drug store or pharmacy (stand alone)	1 space per 200 sq. ft. floor area
	Entertainment establishment	1 space per 350 sq. ft. floor area
	Financial institution	1 space per 200 sq. ft. floor area
	Funeral home	1 space for each 3 seats in the chapel
	General media store	1 space per 200 sq. ft. floor area
	Grocery store	1 space per 250 sq. ft. floor area
	Liquor store	1 space per 400 sq. ft. floor area
	Laundromat	1 space per 200 sq. ft. floor area

	Microbrewery	1 space per 200 sq. ft. floor area for eating/drinking areas and 1 space per 1,000 square feet of manufacturing and processing operations
	Pawn shop	1 space per 200 sq. ft. floor area
	Personal services establishment	1 space per 200 sq. ft. floor area
	Precious metals dealer	1 space per 200 sq. ft. floor area
	Repair establishment	1 space per 300 sq. ft. floor area
	Sales establishment	Up to 300,000 sq. ft.: 1 space per 305 sq. ft. floor area; 300,001 to 600,000 sq. ft.; 1 space per 285 sq. ft. floor area; Over 600,000 sq. ft.: 1 space per 265 sq. ft. floor area
	Tattoo parlor/Body-piercing Studio	1 space per 200 sq. ft. floor area
Self-service storage	All uses	5 spaces
Sexually oriented business	Sexually oriented cabaret	1 space per 100 sq. ft. floor area
	Sexually oriented media store	1 space per 200 sq. ft. floor area
	Sexually oriented motion picture theater	1 space per 4 seats
	Sex shop	1 space per 200 sq. ft. floor area

Vehicles, sales and services	Automobile body shop	1 space per 400 sq. ft. floor area
	Automobile parts sales	1 space per 400 sq. ft. floor area
	Automobile rental and sales	1 space per 300 sq. ft. floor area, plus 1 space per 1,000 sq. ft. outdoor display area
	Automobile repair and servicing	1 space per 400 sq. ft. floor area
	Automobile service station	1 space per 300 sq. ft. floor area
	Automobile service station with wash and detail	1 space per 300 sq. ft. floor area, plus 2 spaces per wash or repair bay
	Boat and marine rental and sales	1 space per 500 sq. ft. floor area, plus 1 space per 5,000 sq. ft. outdoor display area
	Carwash or auto detailing	1 space per employee
	Gasoline sales	1 space per 350 sq. ft. floor area
	Recreational vehicle rental and sales	1 space per 500 sq. ft. floor area, plus 1 space per 5,000 sq. ft. outdoor display area
	Taxicab service	1 space per employee on largest shift
	Tire sales and mounting	1 space per 400 sq. ft. floor area
	Towing service	1 space per employee on largest shift

	Transmission or muffler shop	1 space per 400 sq. ft. floor area
	Truck or tractor rental or sales	1 space per 400 sq. ft. floor area, plus 1 space per 1,000 sq. ft. outdoor display area
Visitor accommodations	Bed and breakfast	1 space per sleeping room, plus requirements for single-family dwelling
	Bed and breakfast inn	1 space per sleeping room, plus requirements for single-family dwelling
	Hotel or motel	1 space per sleeping room, plus 2 spaces for the owner or manager, plus required number of spaces for each accessory use such as restaurant, bar
Warehouse and freight movement	Cold storage plant	1 space per 6,000 sq. ft. floor area
	Parcel services	1 space per employee on largest shift
	Truck or freight terminal	1 space per employee on largest shift
	Warehouse (distribution)	1 space per employee on largest shift
	Warehouse (storage)	1 space per 6,000 sq. ft. floor area
	Outdoor storage (as a principal use)	1 space per employee on largest shift

Waste-related services	Energy recovery plant	1 space per employee on largest shift
	Hazardous waste collection sites	1 space per employee on largest shift
	Incinerator	1 space per employee on largest shift
	Landfill	1 space per employee on largest shift
	Land spreading of wastes	None
	Recycling dropoff center	1 space per 500 sq. ft. floor area
	Recycling and salvage center	1 space per employee on largest shift
	Salvage yard and junkyard	1 space per 5,000 sq. ft. outdoor area
	Tire disposal or recycling	1 space per employee on largest shift
	Waste composting	1 space per employee on largest shift
Wholesale sales	All uses	1 space per 1,000 sq. ft. gross floor area

(2) *Exceptions for certain zone districts.*

- (a) No parking shall be required for any uses and activities in the CSV district.
- (b) The minimum number of required off-street parking spaces shall be reduced by 50 percent in the CBD district. Uses in the CBD district are not precluded from utilizing the alternative compliance standards in Section 6.1.11.
- (c) No off-street parking shall be required for any use or activity existing on February 27, 2006. However, if a residential use existing at the time of February 27, 2006, is changed, then off-street parking shall be provided as required in accordance with this section. In addition, uses in buildings constructed after the effective date of these LDRs shall provide off-street parking as required in accordance with this section.
- (d)

Off-street parking shall not be required for new development, redevelopment, or additions to an existing development when the development, redevelopment, or addition is adjacent to Main Street and located between NW 150th Avenue and NW 145th Avenue, when it is demonstrated that no feasible option exists to provide off-street parking in accordance with Subsection 6.1.4(B)(1). When it is demonstrated that no feasible option exists to comply with the off-street parking standards established in Subsection 6.1.4(B)(1), but a fractional portion of the required off-street parking could be provided, the development, redevelopment, or addition to existing development shall provide such fractional portion of the off-street parking requirement.

- (3) *Unlisted uses.* In the event a use is not listed in Table 6.1-1, Minimum Off-Street Parking Standards, the minimum required off-street parking requirement shall be that of the use with parking requirements or characteristics that are most similar to the unlisted use, as determined by the LDR Administrator.
 - (4) *Alternative minimum requirement.* Regardless of any other requirement of these LDRs, including without limitation the requirements of Table 6.1-1, Minimum Off-Street Parking Standards, each and every separate individual store, office, or other business shall be provided with at least one off-street parking space, unless specific provision to the contrary is made.
 - (5) *Maximum off-street parking allowed.*
 - (a) For any use categorized in Table 6.1-1, Minimum Off-Street Parking Standards, off-street automobile parking spaces shall not be provided in an amount that is more than 125 percent of the minimum requirements established in Table 6.1-1. For example, a use required to provide a minimum of 30 off-street parking spaces based on Table 6.1-1 shall not provide more than a total of 38 spaces (30 times 1.25 equals 37.5).
 - (b) The maximum number of allowable parking spaces may be adjusted by the LDR Administrator if the applicant provides written information demonstrating the proposed use would not be economically viable without such adjustment.
 - (6) *Reductions for affordable housing units.* The minimum off-street parking requirements in Table 4.1-1, Table of Allowed Uses, may be reduced by up to 50 percent for single-family detached and attached, two- to four-family dwellings, townhouse, multiple-family, live/work and upper story dwellings provided that such uses are:
 - (a) Located in the RSF-6, RMF-8, RMF-15, RO and CI zone districts;
 - (b) Deed restricted as affordable housing for low-income residents; and
 - (c) Constructed under the density bonus provisions in Article 5 for such uses.
- (C) *Parking of certain vehicles and major recreational equipment.*
- (1) *Automotive vehicles or trailers.* In residential districts, automotive vehicles or trailers of any type without current license plates shall not be parked or stored other than in completely enclosed buildings.
 - (2) *Major recreational equipment.* No major recreational equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a lot in a residential district, or in any other location not approved for such use. In residential districts, major recreational equipment may be parked or stored in a rear or side yard, but not in a required front yard; provided, however, that such equipment may be parked anywhere on residential premises for a period

not to exceed 24 hours during loading and unloading. For the purposes of this section, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, houseboats and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

- (3) *Storage or overnight parking of commercial or industrial vehicles.* Storage or overnight parking of commercial or industrial vehicles in excess of one ton capacity is prohibited in all residential districts. Storage or overnight parking of commercial or industrial vehicles in excess of one ton capacity is prohibited in business districts unless said location within the business district is approved for such use.
- (4) *Storage or overnight parking of recreational vehicles.* No recreational vehicle, as defined above, shall be stored or parked overnight in business districts, unless said location within the business district is approved for such use.

(D) *Bicycle parking.*

- (1) *Required improvements.* All development with off-street surface parking lots with 50 or more parking spaces shall provide bicycle parking facilities in accordance with the following standards:
 - (a) *Rate of provision.* Bicycle parking shall be provided at a rate of one space for every ten required parking spaces.
 - (b) *Located within 50 feet of building's front facade.* Bicycle parking facilities shall be located within 50 linear feet of the building's front facade, and located near the building's main entrance where feasible, and outside of vehicular use areas and pedestrian travel ways; and
 - (c) *Securing device.* Bicycle parking areas shall be equipped with a rack or other device to enable bicycles to be secured.
- (2) *Incentives for bicycle parking facilities.*
 - (a) For developments served by fewer than 50 off-street parking spaces, the minimum number off-street parking spaces required in Table 6.1-1, Minimum Off-Street Parking Standards, may be reduced by up to ten percent based on the provision of at least five bicycle parking spaces in accordance with the standards in Subsection 6.1.4(D)(1) of this section.

6.1.5 *Off-street loading standards.* Off-street loading facilities are required by these LDRs so that vehicles engaged in unloading will not encroach on or interfere with public use of streets and alleys.

- (A) *Plan required.* A plan shall be submitted with every application for a building permit for any use or structure required to provide off-street loading facilities. The plan shall accurately designate the required off-street loading spaces, access to such parking spaces, and the dimensions and clearances of such spaces.
- (B) *Location.* Each off-street loading space shall be directly accessible from a street or alley without crossing or entering any other required off-street loading space. Such loading space shall be arranged for convenient and safe ingress and egress by motor truck and/or trailer combination.
- (C) *Amounts required.* Off-street loading spaces shall be provided and maintained as follows:
 - (1) *Retail commercial store, service establishment, storage warehouse, wholesale establishment, research or industrial plant, factory, freight terminal, restaurant, dry cleaning and laundry package plant, funeral home, or similar use.* Each retail commercial store, service establishment, storage warehouse, wholesale establishment, research or industrial plant, factory, freight terminal, restaurant, dry cleaning and laundry package plant, funeral home, or similar

use shall provide off-street loading spaces as set forth in the following Table 6.1-2, Retail Off-Street Loading Standards:

Table 6.1-2. Retail Off-Street Loading Standards

Size of Use (square feet)	Number of Spaces
Over 5,000 to 24,999	1
25,000 to 59,999	2
60,000 to 119,999	3
120,000 to 199,999	4
200,000 and over	5 spaces, plus one additional off-street loading space for each additional 90,000 sq. ft. over 290,000 sq. ft. or major fraction thereof;

- (2) *Multifamily, townhouse, or two- to four-family dwellings.* For each multiple-family, townhouse, or two- to four-family dwelling having at least 20 dwelling units but not over 50 dwelling units: two spaces. For each multiple-family, townhouse, or two- to four-family dwelling having over 50 dwelling units: two spaces, plus two spaces for each additional 50 dwelling units, or major fraction thereof.
- (3) *Auditorium, convention hall, exhibition hall, museum, motel, hotel, financial institution, office, sports area, stadium, hospital, or similar use.* For each auditorium, convention hall, exhibition hall, museum, motel, hotel, financial institution, office, sports arena, stadium, hospital, or similar use that has an aggregate floor area of over 10,000 square feet but not over 40,000 square feet: one space; plus for each additional 60,000 square feet over 40,000 square feet or major fraction thereof: one space.
- (4) *Other similar uses.* For any use not specifically mentioned, the standards for off-street loading facilities for a use that is identified in this subsection and to which the unmentioned use is similar shall apply.

6.1.6 Computation of parking and loading standards.

- (A) *Fractional measurements.* When units or measurements determining number of required off-street parking or loading spaces result in requirement of a

fractional space, then such fraction equal or greater than one-half shall require a full off-street parking or loading space.

(B) *Separate parking spaces required.* No part of an off-street parking area required for any building or use shall be included as a part of an off-street parking area similarly required for another building or use unless the LDR Administrator finds the type of use indicates that the period of usage will not overlap or be concurrent with each other.

(C) *Separate loading spaces required.* Off-street loading facilities supplied to meet the needs of one use may not be considered as meeting the needs of another use. Off-street parking facilities may not be used or counted as meeting the off-street loading standards.

6.1.7 *Design and maintenance standards.*

(A) *Parking dimensions.*

(1) *Generally.* Each off-street parking space, with the exception of handicapped parking spaces, shall be a minimum of nine feet by 18 feet in size. Minimum aisle width shall be as shown in the following table:

Table 6.1-3. Off-Street Parking Aisle Dimensions

Angle of Parking (degrees)	Aisle Width	
	One-Way (feet)	Two-Way (feet)
Parallel (zero)	12	20
30	12	22
45	14	22
60	18	24
90	22	24

- (B) *Loading space dimensions.* Each off-street loading space shall have clear horizontal dimensions of 12 feet by 30 feet, exclusive of platforms and piers, and a clear vertical dimension of 14 feet.
- (C) *Unique site constraints.* Where unique site configurations or constraints preclude the construction of some parking spaces meeting the minimum dimensions set forth in this subsection, the LDR Administrator may authorize the replacement of up to five percent of required parking spaces by parking spaces with reduced dimensions, provided that:
- (1) *Minimum dimensions.* No such parking space approved by the LDR Administrator shall have dimensions smaller than eight feet in width by 15 feet in length; and
 - (2) *Marked for use for compact cars only.* Each such parking space shall be required to be clearly marked for use only by compact vehicles.
- (D) *Landscaping and screening.* All required off-street parking and loading areas shall comply with the provisions of Section 6.2, Tree protection/landscape/xeriscape standards, as they apply to parking and loading areas.

6.1.8 *Vehicle stacking spaces.* The development and design standards of this subsection shall apply to all drive-in and drive-through facilities and other auto-oriented uses.

- (A) *Minimum number of vehicle stacking spaces.* Off-street stacking spaces shall be provided as follows:

Table 6.1-4. Minimum Number of Vehicle Stacking Spaces

Activity Type	Minimum Stacking Spaces	Measured From
Financial institution teller lane	6	Teller or window
Automated teller machine	3	Teller
Restaurant, with drive-through or drive-in service	4	Entrance to order box and order box to pickup window
Carwash stall, automatic	6	Entrance
Carwash stall, self-service	3	Entrance
Automobile service station	2	From end of the line of pumps

Funeral home	4	Primary passenger loading area for processions
Liquor store with drive-in or drive-through service	3	Pickup window
Dry cleaners with drive-in or drive-through service	3	Pickup window
Other	4	Pickup window

(B) *Design and layout.* Required drive-through lanes and facilities and vehicle stacking spaces are subject to the following design and layout standards:

(1) *Vehicle stacking spaces.*

(a) *Size.* Vehicle stacking spaces shall be a minimum of nine feet by 20 feet in size.

(b) *Location.* Stacking spaces shall not impede on-site or off-site traffic movements, nor impede movements into or out of off-street parking spaces.

(c) *Design.*

(i) Stacking spaces shall be separated from other internal driveways by raised medians if the LDR Administrator determines the median is necessary for traffic movement and safety.

(ii) Vehicle stacking areas adjacent to public streets or sidewalks shall be separated from such streets or sidewalks by walls or landscaping with berms.

(2) *Drive-in and drive-through facilities and lanes.*

(a) Drive-in facilities (e.g., order stations, pick-up windows, bank teller windows, money machines, etc.) shall be located on the side or rear of principal structures to minimize their visibility from public streets.

(b) To the maximum extent practicable, drive-in lanes shall not be located between the principal structure and adjacent public streets or sidewalks, or other public gathering places (such as a park or a bus stop). If this is not possible, drive-in lanes and facilities shall be set back a minimum of 20 feet from any adjacent public street or sidewalk or other public place. The entire 20-foot setback shall be landscaped and bermed to screen the drive-in lane and facility from adjacent streets and block the exhaust from idling automobiles.

(c) Carwash facilities and gas station auto service bays shall be located on the side or rear of principal structures to minimize their visibility from public streets.

(d)

In addition to any screening required by Section 6.2, Tree protection/landscape/xeriscape standards, drive-in lanes adjacent to residential uses shall be separated from such uses by an opaque wall at least six feet high, located so that required buffer landscaping is between the wall and the adjacent residential use.

- (3) *Primary drive aisles.* Primary drive aisles are required within off-street surface parking lots of 300 or more spaces, and shall be configured to appear as an extension of the public street network through the provision of:
- (a) Sidewalks, parallel to the building facade located along both sides of the aisle;
 - (b) At least one designated crosswalk connecting the sidewalks near the primary entrance of each building served;
 - (c) Canopy trees, spaced no less than 40 feet on center, located on both sides of the aisle, within three feet of the curb, and extending the full length of the aisle;
 - (d) Designated parallel parking spaces on both sides of the drive aisle; and
 - (e) A road crown in the center of the aisle to encourage positive drainage and to simulate a public street.

6.1.9 Accessible parking for disabled persons.

- (A) *Amount of accessible spaces.* Except as otherwise specified in these LDRs, required off-street parking areas shall have a number of level parking spaces that do not exceed a two percent grade, as set forth in Table 6.1-5, Required Accessible Parking Spaces, identified by above-grade signs as being reserved for physically handicapped persons. These spaces shall be included in the required number of parking space required in Table 6.1-1, Minimum Off-Street Parking Standards. Each parking space so reserved shall be not less than 12 feet in width and 18 feet in length.

Table 6.1-5. Required Accessible Parking Spaces

Total Number of Parking Spaces on Lot	Required Number of Handicapped Parking Spaces
Up to 25	1
26—50	2
51—75	3
76—100	4
101—150	5

151—200	6
201—300	7
301—400	8
401—500	9
501—1,000	2% of total
Over 1,000	20, plus 1 for each 100 over 1,000

- (B) *Location of handicapped spaces.* Parking spaces for the physically handicapped shall be located as close as possible to elevators, ramps, walkways and entrances. These parking spaces should be located so that physically handicapped persons are not compelled to wheel or walk behind parked cars to reach entrances, ramps, walkways and elevators.

6.1.10 *Pedestrian facilities.*

- (A) *Required improvements.* Pedestrian pathways shall be provided in off-street surface parking lots with 100 or more parking spaces, in accordance with the following standards:
- (1) Pedestrian crosswalks, at least ten feet in width, either raised above the adjacent pavement, striped, or otherwise designated through the use of alternative materials, shall be located between all primary building entrances and the parking areas serving those entrances; and
 - (2) Within parking lots of 300 or more spaces, improved pedestrian pathways, with a minimum width of three feet, located in continuous landscaped parking islands, shall be provided at least every fourth row of parking spaces.
- (B) *Incentives for pedestrian facilities.* The minimum number of off-street parking spaces required in Table 6.1-1, Minimum Off-Street Parking Standards, may be reduced through the provision of the following features:
- (1) *Crosswalks in lots with fewer than 100 spaces.* The minimum number of off-street parking spaces required in Table 6.1-1 may be reduced by up to five percent in off-street surface parking lots with fewer than 100 required spaces based on the provision of one or more ten-foot-wide designated crosswalks, either raised above the adjacent pavement, striped, or otherwise designated through the use of alternative materials, located between the primary entrances and the parking areas serving those entrances.
 - (2)

Pedestrian pathways in lots with fewer than 300 spaces. The minimum number of off-street parking spaces required in Table 6.1-1 may be reduced by up to five percent in off-street surface parking lots with fewer than 300 required spaces based on the provision of one or more improved pedestrian pathway, with a minimum width of three feet, located in a continuous landscaped parking island, and provided at least every fourth row of parking spaces.

- (3) *Designated public gathering space.* In addition to the incentives included above, any development with 20 or more required off-street parking spaces may reduce the minimum number of required off-street parking spaces by five percent through the provision of a designated public space adjacent to a primary building entrance that includes a shaded seating area at least 100 square feet in size, and at least two of the following:
- (a) Water feature;
 - (b) Children's play area;
 - (c) Public art;
 - (d) Area for food vending;
 - (e) Public telephone; or
 - (f) Other feature approved by the LDR Administrator.

6.1.11 *Alternative compliance.*

- (A) *Combined off-street parking.* Two or more owners or operators of buildings or uses requiring off-street parking facilities may make collective provision for such facilities, provided that the total of such parking spaces when combined or used together shall not be less than the sum of the requirements computed separately.
- (B) *Combined off-street loading.* Collective, joint, or combined provisions for off-street loading facilities for two or more buildings or uses may be made, provided that such off-street loading facilities are equal in size and capacity to the combined requirements of the several buildings or uses and are designed, located, and arranged to be usable by such uses.
- (C) *Shared parking plan.* If a property owner in a business district believes that the full number of off-street parking spaces required by Table 6.1-1, Minimum Off-Street Parking Standards, is not necessary to provide adequate off-street parking for the proposed use because of:
 - (a) Unique characteristics of the site or the proposed uses;
 - (b) The property owner's desire to share parking spaces with nearby uses in a manner that is not authorized by Subsection 6.1.11(A) of this section; or
 - (c) The property owner's desire to have two or more adjacent properties considered as a single parcel for purposes of compliance with parking requirements, and the sum of the available parking on such lots is sufficient to meet the sum of the minimum off-street parking requirements for each use on such properties, the property owner may apply to the LDR Administrator for approval of a shared parking plan.

The LDR Administrator may approve such an application, or approve it with modifications, if it is determined the shared parking plan provides adequate off-street parking for the proposed uses, and would not significantly increase on-street parking in the area. The LDR Administrator may condition the approval of a shared parking plan on the applicant adopting restrictions on hours of operation of one or more participating use in order to ensure that the shared parking is adequate for anticipated needs.

- (D) *Parking reserve.* If a property owner in a nonresidential zone district is seeking approval for a use that is identified in Table 6.1-1 as a business use, but:
- (1) Does not intend to make the entirety of the property available for occupancy for some interim period; or
 - (2) Intends to make the property available for occupancy by a low-intensity use for some interim period;

The property owner may apply to the LDR Administrator for approval of a parking reserve plan. A parking reserve plan indicates the number and layout of parking spaces necessary to serve the proposed use of the property during the interim period, and also designates areas of the site that will be reserved from development and kept available for future development and parking. In all cases, a reserved parking plan shall provide that the applicant will construct at least 80 percent of the total required parking spaces at the time of initial occupancy, and that the amount of deferred parking shall be no more than 20 percent of the total required parking. The LDR Administrator may approve such an application, or approve it with modifications, if it is determined that:

- (a) The parking reserve plan will provide adequate off-street parking for the uses proposed during the interim period;
- (b) The parking reserve areas will provide adequate off-street parking for the property at the highest levels of occupancy and intensity available under the development proposal; and
- (c) The location and layout of the parking reserve will provide for efficient access and circulation.

In any case where the parking reserve area would not comply with the site perimeter landscaping standards that would apply to a parking lot during the interim period, the LDR Administrator may require a commitment to provide required screening at the time that the parking reserve is used for parking in the future. If at any time, it is determined that the parking provided does not meet the needs of existing development, the LDR Administrator may require development of all or part of the parking reserve area.

- (E) *Agreements.* Any use of any of the parking or loading alternatives identified in this Subsection 6.1.11, Alternative compliance, shall be subject to the filing of a deed restriction satisfactory to the City Attorney ensuring that such off-street parking or loading will be maintained in the future so long as a use or uses requiring such off-street parking or loading continue. If all or a portion of the parking required to serve a use is located on a property under different ownership, the City may require the execution of an agreement among the property owners involved as a precondition to approval of the requested parking alternative, and may record such agreement in the title records of the properties involved.

(Ord. No. 12-06, § 3, 1-23-2012; Ord. No. 14-08, § 3(Exh. A), 9-8-2014; Ord. No. 16-04, § 3(Exh. A), 4-11-2016; Ord. No. 18-08, § 3(Exh. A), 4-9-2018; Ord. No. 20-08, § 3(Exh. A), 7-27-2020; Ord. No. 22-01, § 3(Exh. A), 10-11-2021; Ord. No. 23-02, § 3(Exh. A), 6-26-2023)

State Law reference— Provisions to ensure safe and convenient on-site traffic flow, considering needed vehicle parking, F.S. § 163.3202(2)(h).

Sec. 6.2. - Tree protection and landscaping standards.

6.2.1 *Tree protection standards.*

- (A) *Purpose.* The purpose of these tree protection standards is to limit the destruction of and ensure the survival of as many trees as possible in the City. The maintenance of existing trees and replanting of new trees is necessary to promote the value of property and the quality of life of its citizens; to ensure the stabilization of soil by prevention of erosion; to reduce stormwater runoff and the costs associated with it; to replenish groundwater supply; to cleanse the air of harmful pollutants; and to provide greenbelts and buffers to screen against noise pollution, artificial light, and glare. It is the intent of this section to prohibit the unnecessary clearing of land so as to achieve no net loss of trees and to preserve, as much as possible, the existing tree canopy.
- (B) *Findings.* The City Commission finds that:
- (1) The protection and preservation of trees on public and private property within the City is not only desirable for aesthetic value, but essential to present and future health, safety, and welfare of its citizens;
 - (2) Trees absorb carbon dioxide and return oxygen, a vital ingredient to life, to the environment;
 - (3) Trees are a valuable property asset that can affect an area economically; and
 - (4) A tree protection ordinance is necessary in order to promote community welfare through regulating the removal and destruction of trees prior to and during construction and occupancy.
- (C) *Scope.* The terms and provisions of this section shall apply to all real property lying within the incorporated limits of the City, including publicly owned lands, rights-of-way and easements, subject to certain exemptions specifically provided for in this section.
- (D) *Tree planting, relocation, replacement, credit, banking.*
- (1) *New trees.* New trees shall be installed to replace healthy regulated trees removed pursuant to this section. Regulated trees shall be replaced on a one-for-one basis. Healthy heritage and champion trees removed as provided herein shall be replaced on an inch-for-inch basis. Replacement trees shall be graded Florida No. 1 or better, as outlined in the most recent publication of the State of Florida, Department of Agriculture and Consumer Services, Division of Plant Industry, Grades and Standards for Nursery Plants, Part II, Palms and Trees. The term "healthy," as stated herein, means "good" or better per the standard definition from the International Society of Arboriculture (ISA) stating the tree has no major structural problems, no significant damage due to disease or pests, no significant mechanical damage, a full balance crown, and normal twig condition and vigor for its species. Palm trees may be utilized as replacement trees but at an increased ratio of 3:1 replacement and shall be a minimum of eight feet tall at the time of planting.
 - (2) *During development.* During development or site alteration activities, the following standards shall be met:
 - (a) Protective barricades shall be placed to define a protective area around existing trees to remain. Barriers shall be placed around all regulated trees at a minimum of two-thirds of the area of the dripline of the tree or stand of trees or at six feet from the trunk of the tree, whichever is greater. Protective barricades shall be placed at the dripline of all heritage trees, champion trees, and regulated palm trees. Protective barricades shall be placed around all

trees to be retained on the site and shall remain in place until site clearing and construction activities are complete, except where land alteration and construction activities are approved within the protected area. If land alteration and construction activities are approved within the protected area, then the protective barricades shall only be removed when activities are occurring. Protective barricades shall be replaced upon completion of the activities within the protected area. Protective barricades shall be at least four feet high and constructed of either wooden corner posts at least four inches in width by four inches in depth by four feet in height buried one foot deep with at least two courses of wooden side slats at least two inches in width by four feet with colored flagging or colored mesh construction fencing attached or constructed of one inch angle iron corner posts with brightly colored mesh construction fencing attached.

- (b) A minimum distance of ten feet shall be maintained from all retained regulated, heritage, and champion trees when installing underground utilities. If this results in unreasonable hardship, a soil auger shall be used to tunnel under the root systems.
 - (c) No attachments shall be secured to trees designated to remain on site.
 - (d) A three-inch layer of mulch shall be applied over the surface of any exposed roots of retained regulated, heritage, and champion trees and kept wet during the site clearing and construction phases.
 - (e) Raising or lowering of grade within the dripline of existing trees to remain shall not be permitted unless otherwise approved by the Land Development Regulations Administrator or appointee.
 - (f) During the site clearing or construction phases, the following activities shall be prohibited within the protective area unless approved with the appropriate protective strategies by the City during site plan or construction plan approval:
 - (1) The clearing of vegetation except by hand;
 - (2) The compaction, filling, or removal of soil deposits;
 - (3) The placement of debris;
 - (4) The placement or dumping of solvents or other chemicals;
 - (5) The placement or storage of construction materials, machinery or other equipment of any kind; and
 - (6) The use of concrete, asphalt, or other paving materials.
 - (g) Any retained or relocated tree shall be replaced in accordance with the requirements of Subsection 6.2.1 (D) (1), if the tree dies within one year after site clearing and construction.
 - (h) Any root pruning and/or pruning of retained regulated, heritage, and champion trees during the site clearing or construction phases shall be done in accordance with arboricultural standards and directly overseen by an ISA-certified Arborist.
- (3) *Incentives for preservation.* The City may approve a transfer of development rights on lands preserved for tree preservation beyond the requirements in this section during the site plan or preliminary plat process.
- (a)

Developers preserving portions of tree protection areas within a development site will be authorized during the site plan or subdivision plat process for an on-site transfer of development rights at a density or intensity bonus rate of 3:1. For example, if a developer retains a contiguous five acre tract of quality tree protection area within their development site, and that property has a zoning density of three units per acre, then the developer would be authorized to transfer 45 dwelling units to the developable portion of their site. (Five acres times three dwelling units per acre times three equals 45 dwelling units.)

- (b) Any acreage used to calculate a credit for preservation shall be recorded as a permanent preservation area on the subdivision plat and in any covenants and deed restrictions and shall not be eligible for any future development rights.
- (4) *Tree replacement.*
 - (a) When the applicant is required to replace a regulated or heritage, tree as a condition of approval for a tree removal, site plan or subdivision plat, the applicant shall select site appropriate trees if it is feasible, the regulated, heritage, or champion tree may be related on the same parcel of land. When selecting replacement trees from the recommended tree list, the applicant shall choose from a similar species or category as the tree that is being removed. For example, a canopy tree should be replaced with a tree from the canopy or large tree list.
 - (b) If the applicant is required to replace a regulated or heritage tree as a condition of approval for a tree removal, site plan or subdivision plat, up to 25 percent of the trees required to meet the site landscaping, parking lot landscaping, or perimeter buffer standards may be counted towards the requirements of Subsection 6.2.1(D)(1).
 - (c) At least 50 percent of the total required replacement trees shall be shade trees and at least 75 percent of the total required trees shall be site-specific trees appropriate for the site.
 - (d) Trees must meet the minimum requirements found in Subsection 6.2.2(D)(9)(b)(ii).
 - (e) Trees from the recommended tree list used to meet the requirements of this section shall be graded Florida No. 1 or better, as outlined by the most recent publication of the State of Florida, Department of Agriculture and Consumer Services, Division of Plant Industry, Florida Grades and Standards for Nursery Plants.
 - (f) Trees shall be planted in accordance with xeriscaping principles and accepted arboricultural standards and practices.
 - (g) The pervious area or tree lawn provided around trees shall be sufficient to permit root growth and provide for longevity of the tree species planted. The height of the tree at maturity and root size shall be considered in the selection of the trees.
 - (h) Trees shall be planted in accordance with the City of Alachua Department of Public Services Requirements for Design and Construction, as amended.
 - (i) No tree shall be planted within ten feet of a fire hydrant or utility pole, within 15 feet of a driveway apron, within 20 feet of a traffic sign, or within 25 feet of an intersection in order to ensure adequate visibility.
 - (j) The owner of the parcel shall be responsible for the maintenance of all preserved, relocated, or replacement trees. All trees will be inspected by an arborist, forester, or registered landscape architect, hired by the owner, within six months after planting to ensure the trees are surviving in a healthy condition. A certified report shall be provided to the land development regulations administrator describing the condition of trees. Trees found to be in

declining condition shall be replaced by the owner of the parcel within 30 days of submittal of the report. If replacement is necessary, there shall be a reinspection report submitted within six months after the replacement replanting.

(k) Champion trees may not be removed except by resolution of the City Commission finding that the following conditions have been met:

(i) A report from a certified arborist documenting that:

- a. The tree is dead; or
- b. The tree is seriously diseased and treatment is not practical; or
- c. The tree is significantly damaged and remedial pruning would not be effective in rehabilitating the tree.

(5) *Tree removal.*

- (a) When protected trees are allowed to be removed during land alteration/site clearing, the trees shall be identified by red flagging.
- (b) The rights-of-way of proposed roads, the corners of proposed buildings, the location of proposed drainage basins, manmade lakes, areas that require fill and other improvements shall be rough staked and protective barricades shall be installed around trees designated for protection prior to on-site inspection. If, on inspection, these areas have not been identified, a re-inspection will not be done until violations have been corrected.
- (c) A copy of the tree removal permit shall be posted on the site during these activities.

(6) *Tree credits.*

- (a) Where a minimum number of trees are required to meet the landscaping requirements of these land development regulations or an approved planned development, credit shall be given for the retention of "good" or better existing native trees, as defined in Subsection 6.2.2(D)(4). No credit will be given for the preservation of trees on the nuisance tree list. A table displaying a list of all trees claimed for credits under this subsection shall be included in the landscape plan; this table shall include common name, botanical name, caliper at DBH, health, number of tree credits being used, and reference number to location on tree survey provided as a part of the landscape plan.
- (b) In addition to the tree credit in Subsection 6.2.1(D)(6)(a) of this section, a double credit for will be given for each preserved healthy heritage tree accommodated by a change in design within portions of the site proposed for development (i.e., areas designated for off-street parking and loading, landscaping, building area, or stormwater management). Applicants requesting this tree credit shall demonstrate through the proposed site plan and application that special consideration in site design was utilized to preserve the healthy heritage tree. Should the preserved heritage tree die within the one year maintenance period, the tree will be mitigated in adherence with the requirements for healthy heritage tree replacement in this section.
- (c) When trees are removed with an approved tree removal permit for the construction of new residential dwellings or a substantially remodeled residential dwellings qualifying as housing sold to low- and moderate-income families, such trees will be replaced at a rate of 50 percent (one-half tree per tree removed). Projects certifying that 50 percent or more of the residential dwelling units qualify as housing sold to low- and moderate-income families will

receive a tree credit for replacement of removed regulated trees at a replacement rate of 25 percent (one-quarter tree per tree removed). For the purposes of this subsection, the term "housing sold to low- and moderate-income families" means families earning less than 80 percent of the Alachua County median income.

(7) *Tree banking.*

- (a) The City may allow off-site mitigation for required tree replacement that cannot be accommodated through on-site mitigation. Trees authorized for off-site mitigation shall be planted in City-owned properties and parks, City rights-of-way, and preservation or conservation areas owned by the City. The City may also plant trees within the medians and rights-of-way of state and county roads where an interlocal agreement authorizes such plantings.
- (b) The City will establish a separate fund within the City's chart of accounts to be used exclusively for off-site tree mitigation payments. Funds withdrawn from this account shall be spent solely for the planting and maintenance of new trees in accordance with this section.
- (c) The off-site mitigation formula shall be equal to the cost of the replacement tree, plus installation (labor and equipment), plus maintenance for one year, plus fund administration. This formula will be multiplied by the number of replacement trees required to fulfill mitigation requirements. The fee for off-site tree mitigation shall be adopted by the City Commission through resolution.
- (d) Fees for off-site mitigation shall be determined and approved in accordance with the above Subsection (7)(c) by the City prior to any public hearing related to the proposed site plan or plat. Fees for off-site mitigation shall be paid to the City prior to the issuance of any tree removal permit or building permit. Receipts for payment will be specifically marked for the off-site mitigation account.

(E) *Maintenance.*

- (1) *Trees overhanging street right-of-way.* Every owner of any tree overhanging any street right-of-way within the City shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the sidewalk. The City shall have the right, but not the obligation, to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a streetlight or interferes with the visibility of any traffic control device or signs at intersections of streets.
- (2) *Dead or diseased trees on private property.* The City shall have the right, but not the obligation, to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees within the City. The owner of the land upon which such dead or diseased trees are standing or located shall be notified in writing by the Land Development Regulations Administrator to remove such trees and the removal shall be done by said owner at the owner's expense within 30 days after the date of mailing of such notice. In the event of failure of the owner to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal to the owners of the property through the action of the Special Magistrate.
- (3) *Compliance by public agencies and utilities.* All public agencies and utilities shall comply with the permitting requirements of this section prior to commencing any pruning or removal of any regulated, heritage and champion trees. All public utilities, governmental agencies, and their subcontractors shall comply with the International Society of Arboriculture standards for pruning shade trees when pruning any trees on public property. Emergency removal requiring immediate action to protect the health and safety of the public are not subject to this section.

- (4) *Property owner's responsibility.* It shall be the property owner's responsibility to adequately maintain the trees shown on an approved site plan or preliminary plan, to ensure healthy survival. Neglecting or abusing trees is a violation of this section.
- (5) *Rights of the City.* The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the rights-of-way of all public streets, alleys, avenues, lanes and squares, parks, and any other public grounds, as may be necessary to ensure public safety or to preserve or enhance symmetry and beauty of such public grounds. The City 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 is injurious to sewer, water and gas lines, or other public improvements, or is affected with any injurious fungus, insect or pest.

(F) *Tree removal application and permit.*

- (1) *Exemptions.*
 - (a) Regulated trees, except for heritage or champion trees, on all lots and parcels of land with a single-family residential dwelling unit, not to include mixed-use portions of developments, are exempt from the requirements of this section. No person shall cut or remove any heritage or champion tree from any such lot or parcel of land without first obtaining a tree removal permit from the City.
 - (b) During any period of emergency, such as hurricanes, windstorms, floods, freezes, or other natural disasters, the requirements of this section may be waived for a definite period of time by the City Manager with respect to cutting and removing damaged trees in all areas affected by such disaster.
 - (c) Any tree determined to be in a hazardous condition by the Land Development Regulations Administrator, so as to endanger the health, safety, and welfare of persons and property, and require immediate removal shall be exempt from the requirement of this section. Such tree may be cut and removed upon verbal authorization by the City Manager, or in his or her absence, the Land Development Regulations Administrator. The International Association of Arboriculture publication, A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas, shall be used as a guide and reference for determining the condition of a tree.
 - (d) Agricultural lands. Lands that qualify for agricultural tax exemption by the Alachua County Property Appraiser and have an agriculture future land use designation on the City of Alachua Comprehensive Plan Future Land Use Map are exempt from the requirements of this section, except for the following:
 - (i) A tree removal permit shall be required for the removal of champion and heritage trees located within 50 feet of the property boundary line or within 400 feet of a public park; and
 - (ii) A notice of activity must be submitted to the Land Development Regulations Administrator no less than seven days prior to any cutting and removal of trees or the clearing of the land.
 - (e) Forestry. All bona fide commercial forestry operations are exempt from the requirements of this section where trees are grown for silviculture purposes or for intended sale in the course of business. However, owners of commercial forestry operations shall submit a notice of activity to the Land Development Regulations Administrator prior to the commencement of any timber harvesting, mechanical site preparation, or land clearing.

(f)

The removal, trimming, pruning, or alteration of nonregulated trees or vegetation growing within the area of any public or private utility easement or drainage easement or right-of-way is exempt from the provisions of this section, provided such work is done by or under the control of the operating utility company, governmental agency, or entity responsible for the maintenance of said facility.

- (g) Removal of nuisance trees or trees identified in the Florida Exotic Pest Plant Council's List of Invasive Plant Species, as amended, is exempt from the terms and provisions of this section.

(G) Site plan and subdivision plat requirements.

- (1) Site plans and construction plan shall include consideration of tree preservation and approval shall constitute the issuance of a tree removal permit consistent with the approved plan.
 - (a) Applicants for site plans and construction plans shall provide aerial or ground photographs of any regulated, heritage, or champion trees to be preserved. The applicant shall mark and reasonably locate upon the site plan or construction plan drawing, all champion, heritage, and other regulated trees to be retained, relocated or removed. The applicant shall mark and reasonably locate upon the site plan or construction plan all nuisance trees or trees identified in the Florida Exotic Pest Plant Council's List of Invasive Plant Species, as amended. The tree location drawing shall conform to the following:
 - (i) Trees are to be identified by both common and scientific names.
 - (ii) Trees shown on the tree location drawing will be identified as to which trees will be saved, relocated or removed.
 - (iii) The tree location drawing is to be at the same scale as the site plan or construction plan.
 - (iv) The tree location drawing may be presented as a separate sheet within the site plan or construction plan; however, the trees must be included on one sheet of the site plan or construction plan that shows the location of the proposed buildings, driveways, off-street parking and loading facilities, stormwater management facilities, existing contours and finished elevations, overhead electric lines, underground utilities and any other proposed improvements that could potentially have a negative impact on existing trees.
 - (b) In the event that no champion, heritage or regulated trees are found, it shall be so noted on the site plan or construction plan and a tree location drawing shall not be required.
 - (c) A note shall be included that all vegetative materials identified in the Florida Exotic Pest Plant Council's List of Invasive Plant Species, as amended, shall be removed at time of development.

(H) Administration, enforcement and appeal. In addition to the general provisions of Article 9, the following provisions shall apply to this section:

- (1) Except as specifically exempted in this section, it shall be unlawful for any person to cut or remove any regulated, heritage or champion tree from any lands within the City without first obtaining a tree removal permit from the LDR Administrator.
- (2)

No lands in the City, upon which are located regulated, heritage or champion trees, may be cleared, graded or developed, and no building permit shall be granted for such land without the owner or developer first applying for and receiving from the LDR Administrator a tree removal permit, except as exempted within this section.

- (3) Removal of any regulated tree or any site work that is not done according to an approved tree removal permit is a violation of this section. When such violations occur prior to the final inspection of the project, the LDR Administrator will immediately issue a stop work order. Upon the issuance of such stop work order, all site work shall cease until a restoration plan is submitted by the applicant and approved by the LDR Administrator. The site stop work order shall remain in effect until the approved restoration plan has been implemented and completed. The owner, developer, subcontractor, or agent shall have 30 days to present a restoration plant to the LDR Administrator. If no restoration plan is presented within 30 days, the owner, developer, subcontractor, and agent shall be subject to all of the penalties, including fines, provided for violation of this section. No certificate of occupancy shall be issued until all trees and other vegetation shown on the approved restoration plan have been planted and grades restored.
- (4) A list of fines for damaging trees by conduct in violation of this section will be adopted by the City Commission in a manner consistent with the adoption of other fees. Fines for such violations may be issued by Special Magistrate.
- (5) Appeals to the issuance of a tree removal permit shall be as authorized by these LDRs.
- (6) Violations of this section shall be heard by the Special Magistrate.
- (7) For the purposes of this section, the following are provided as a list of references, in addition to those publications previously referenced:
 - (a) The Florida Division of Forestry's Tree Protection Manual for Builders and Developers shall serve as the primary reference, whenever there is a question regarding tree protection standards, unless another publication is specifically referenced.
 - (b) The most current International Society of Arboriculture (ISA) standards shall be referenced for all public utilities, government agencies, and their subcontractors when pruning trees on public or private property and National Arborist Association Standards for Pruning Shade Trees when pruning regulated, heritage or champion trees.
 - (c) The Florida Division of Forestry's Silviculture Best Management Practices Manual shall be the reference used for the conducting of all commercial forestry operations.
- (8) The Land Development Regulations Administrator may establish technical standards setting forth administrative guidelines governing the enforcement of this section, requirements not specifically addressed in this section, and any other information needed for the uniform and orderly administration of this section. Such standards may be published in a technical manual which shall be on file in the office of the City Clerk.

6.2.2 *Landscape standards.*

- (A) *Purpose.* The purpose of these landscaping standards is to provide an aesthetically pleasing environment for the residents of the City. The standards are intended to maintain and enhance property values, enhance the appearance of development, provide adequate buffers between incompatible uses, improve the character and appearance of the City, and reduce erosion and stormwater runoff.
- (B) *Applicability.* These standards shall apply to the following development in the City:

- (1) *Single-family lots or dwellings.* The subdivision or development of eight or more single-family residential lots or dwellings.
- (2) *Single-family attached dwellings.* The subdivision or development of eight or more single-family attached dwellings.
- (3) *Two- to four-family dwellings.* The subdivision or development of eight or more two- to four-family dwellings.
- (4) *Manufactured home park.* Subdivision for a manufactured home park.
- (5) *Existing multifamily structure.* Development of a multifamily structure or redevelopment of an existing multifamily structure that results in an increase in building square footage of 60 percent or more.
- (6) *Cottage neighborhoods.* Cottage neighborhoods located in the CP zoning district.
- (7) *Nonresidential.* Development of a nonresidential structure or redevelopment of a nonresidential structure that results in an increase in building square footage or impervious surface by 50 percent or more.
- (8) *Parking lot.* Development of a parking lot for eight or more spaces.
- (9) *Existing parking lot.* Redevelopment or expansion of an existing parking lot that results in an increase of 20 or more spaces. Redevelopment or expansion includes items such as repaving, changes in ingress or egress, and reconstruction of stormwater drainage systems.

(C) *Landscape plan required.* A landscape plan shall be submitted with an application for a site plan (Section 2.4.9), subdivision (Section 2.4.10), planned development (Section 2.4.3) or building permit, whichever occurs first, for any development or change in use that is required to provide landscaping in accordance with this section. The landscape plan shall contain the following information which spells out how the development proposed will comply with this section:

- (1) *Identification of existing trees.* A survey showing the location, common name, and size existing regulated trees.
- (2) *Identification of existing trees to be preserved.* The location, common name, and estimated size of existing trees that are to be preserved as part of a tree protection zone or preserved for credit.
- (3) *Parking areas, buffers areas, and other planting areas.* The locations and dimensions of parking areas, perimeter buffer areas and other planting areas.
- (4) *Identification of new plant materials.* The size, botanical name, common name and spacing of new plant materials.
- (5) *Fences, walls or earthen berms.* The location and design of any fence, wall or earthen berm, indicating size and materials.
- (6) *Barriers required to protect existing vegetation.* The location and description of any barriers required to be erected to protect any existing vegetation from damage, both during and after construction.
- (7) *Maintenance.* Provisions for watering and other long-term maintenance to ensure serviceability, soil stabilization and plant protection.
- (8) *Florida Friendly Landscaping.* A narrative explaining how Florida Friendly Landscaping practices have been incorporated into landscape plan.

(D) *Landscape standards.*

- (1)

Site landscaping. For purposes of this section the number of trees required is rounded to nearest whole tree or shrub (e.g., if number of canopy trees needed to meet site landscaping requirements is calculated at 9.5 trees then ten trees would be required). The following site landscaping shall be required for the following:

(a) *Multifamily and townhouses.*

- (i) Two canopy trees per acre, planted on the primary or street-facing side, and one canopy trees per acre planted on each of the exterior sides and exterior rear of each primary structure. An existing canopy tree that is a native species and in good or better health can be utilized to fulfill this requirement. It is encouraged that the tree be located so that it may provide shade on the structure during the summer afternoon.
- (ii) Six ornamental/understory trees per acre, with 50 percent planted in front and 25 percent on each side.
- (iii) A row of shrubs along the front facade of the structure, with consideration given to access to utility meters or mechanical equipment. Shrubs shall not be planted directly against the structure, but a minimum of two feet from the facade to facilitate adequate air circulation. In lieu of a horizontal line of shrubs along the front facade, shrub masses of three or more species may be utilized.
- (iv) For sites with multiple buildings, for each 100 feet of facade of the longest building face of any buildings at least one of the following options, located between all structures:
 - a. Two canopy trees;
 - b. Four understory trees;
 - c. A row of shrubs along facades facing each other;
 - d. Community garden area of at least 1,500 square feet;
 - e. Fountain or other water feature;
 - f. Shaded table or bench;
 - g. Other significant landscape improvement as approved by LDR Administrator.
- (v) A combination of solid sod, seeding, and sprigs shall be used to cover 100 percent of the lot site disturbed by construction activities. Areas of native vegetation are not required to be sodded. An area within 20 feet of the front building facade shall be sodded with other disturbed areas to be sodded, seeded or sprigged.
- (vi) The site landscaping requirements found in [Subsection] 6.2.2(D)(1)(a)(i) and (ii) are reduced by 50% for those developments on sites which are 43,560 square feet or less.

(b) *Public and institutional uses.*

- (i) Four canopy trees per acre, planted on the primary or street-facing side, three canopy trees per acre planted on each of the sides and rear of each structure, and an additional four canopy trees for each 100 lineal feet of facade, planted in front of the facade. An existing canopy tree that is a native species and in very good to excellent health can be utilized to fulfill this requirement if it is located within 25 feet of the building. It is

encouraged that the tree be located, so that it may provide shade on the structure during the summer afternoon.

- (ii) Eight ornamental/understory trees per acre, with 50 percent planted in front of the structure and 25 percent planted on each side.
 - (iii) For sites with multiple buildings, for each 100 feet of facade of the longest building face of any adjacent buildings at least one of the following options, located between structures:
 - a. Two canopy trees;
 - b. Four understory trees;
 - c. Community garden area of at least 1,500 square feet;
 - d. Fountain or other water feature;
 - e. Shaded table or bench;
 - f. Other significant landscape improvement as approved by LDR Administrator.
 - (iv) A row of shrubs planted along all facades of the structure, with consideration given to access to utility meters or mechanical equipment. In lieu of a horizontal line of shrubs along the front facade, shrub masses of three or more species may be utilized. Shrubs shall not be planted directly against the structure, but a minimum of two feet from the facade to facilitate adequate air circulation.
 - (v) A combination of solid sod, seeding, and sprigs to cover 100 percent of the lot site disturbed by construction activities. Areas of native vegetation do not have to be sodded. An area within 20 feet of the front building facade shall be sodded with other disturbed areas to be sodded, seeded or sprigged.
 - (vi) For those uses that do not have a principal structure, site landscaping shall be distributed throughout site, as is practical.
- (c) *Business uses other than those use types found in the Industrial Services, Manufacturing and Production, and Warehouse and Freight Movement Use Categories.*
- (i) Three canopy trees per acre, planted on the primary or street-facing side, two canopy trees per acre planted on each of the sides and rear of each structure, and an additional four canopy trees for each 100 lineal feet of facade, planted in front of the facade. An existing canopy tree located on site that is a native species and in very good to excellent health can be utilized to fulfill this requirement if it is located within 25 feet of the building. It is encouraged that the tree be located so that it may provide shade on the structure during the summer afternoon.
 - (ii) Six ornamental/understory trees per acre, with 50 percent planted in front of the structure and 25 percent planted on each side.
 - (iii) A row of shrubs planted along all facades of the structure, with consideration given to access to utility meters or mechanical equipment. In lieu of a horizontal line of shrubs along the front facade, shrub masses of three or more species may be utilized. Shrubs shall not be planted directly against the structure, but a minimum of two feet from the facade to facilitate adequate air circulation.
 - (iv)

A combination of solid sod, seeding and sprigs to cover 100 percent of the lot site disturbed by construction activities. Areas of native vegetation do not have to be sodded. An area within 20 feet of the front building facade shall be sodded with other disturbed areas to be sodded, seeded or sprigged.

(v) The site landscaping requirements found in Subsection 6.2.2(D)(1)(c)(i) and (ii) are reduced by 33% for those developments on sites which are one acre or less.

(d) *Business uses found in the Industrial Services, Manufacturing and Production, and Warehouse and Freight Movement Use Categories.*

(i) One canopy tree per acre, planted on the primary or street-facing side, two canopy trees per acre planted on each of the sides and rear of each structure, and an additional canopy tree for each 150 lineal feet of facade, planted in front of the facade of the primary structure. An existing canopy tree located on site that is a native species and in very good to excellent health can be utilized to fulfill this requirement if it is located within 25 feet of the building. It is encouraged that the tree be located so that it may provide shade on the structure during the summer afternoon.

(ii) Six ornamental/understory trees per acre, with 50 percent planted in front of the structure and 25 percent planted on each side.

(iii) A row of shrubs planted along front and side facades of the primary structure, with consideration given to access to utility meters or mechanical equipment. In lieu of a horizontal line of shrubs along the front and side facade, shrub masses of three or more species may be utilized. Shrubs shall not be planted directly against the structure, but a minimum of two feet from the facade to facilitate adequate air circulation.

(iv) A combination of solid sod, seeding and sprigs to cover 100 percent of the lot site disturbed by construction activities. Areas of native vegetation do not have to be sodded. An area within 20 feet of the front building facade shall be sodded with other disturbed areas to be sodded, seeded or sprigged.

(v) The site landscaping requirements found in Subsection 6.2.2(D)(1)(d)(i) and (ii) are reduced by 25 percent for those developments on sites which are three acres or less.

(e) *Alternative placement.* In cases where the configuration or topographical constraints of an existing site make the placement of required site landscaping impractical, the LDR Administrator may approve up to 50 percent of the required landscaping to be planted on City-owned properties and parks, City rights-of-way, and preservation or conservation areas owned by the City in accordance with Subsection 6.2.2(D)(9) of this section, Alternative landscape plan.

(2) *Parking lot landscaping.*

(a) *Interior landscaping.* All parking lots shall provide and maintain the following landscaped planting areas within the interior of the parking lot. These standards shall not apply to parking structures or vehicle display areas.

(i) Each planting area shall contain an area adequate to accommodate the root growth of the plant material used. The size of the planting area and size of plant material at maturity shall allow for a two and one-half foot bumper overhang from the face of the curb.

(ii) Interior planting areas shall be located within or adjacent to parking areas, consisting of one or more of the following:

a. Landscaped islands located at the end of parking bays; or

- b. Landscaped islands located between parallel rows of cars, used to visually separate parking areas; or
 - c. Landscaped driveway medians with a minimum width of six feet if curbed or a minimum width of ten feet if not curbed; or
 - d. Landscaped areas adjacent to parking lots, interior to the development area.
- (iii) Each interior planting area shall contain locally adapted trees and shrubs at the following rate:
- a. Trees shall be required at the minimum rate of one canopy or ornamental/understory tree for every 1,800 square feet, or portion thereof, of the total parking lot area.
 - b. Shrubs shall be required at the minimum rate of ten shrubs per landscaped island.
 - c. Tree islands must be located no more than 11 parking spaces from another tree island or landscaped island at end of parking bay.
 - d. No parking space shall be separated from the trunk of an interior parking lot ornamental or canopy tree by more than 80 feet;
 - e. In cases where the configuration or topographical constraints of an existing site make the placement of required site landscaping impractical, the LDR Administrator may approve up to 50 percent of the required landscaping to be planted on an adjacent public property in accordance with Subsection 6.2.2(D)(9) of this section, Alternative landscape plan.
 - f. The interior planting requirements found in [Subsection] 6.2.2(D)(2)(iii)a and b are reduced by 50 percent when all parking bays within the parking lot area are located in the rear or side of the property.
 - g. Parking lot area shall be calculated as the paved or unpaved area dedicated to the short- or long-term parking or unloading of vehicles, including associated drive-aisles adjacent to parking bays or loading areas.
- (iv) All planting areas shall be stabilized with ground covers, mulching, or other approved materials to prevent soil erosion and allow rainwater infiltration, and shall be irrigated or utilize a xeriscape irrigation alternative.
- (v) All planting areas shall be protected from vehicle damage by the installation of curbing, wheel stops or other comparable methods.
- (vi) Earthen berms may also be incorporated into the design of any required planting area. Any berm installed shall have a side slope of no greater than 2.5:1.
- (b) *Parking lot buffer.* All parking lots shall have landscape buffers around their exterior perimeter that shall be composed of trees, shrubs, ground cover and turfgrass as follows:
- (i) The buffer shall form a continuous visual screen, excluding required site clearances at driveways. It shall be placed and located to ensure visibility and safety of pedestrians on the public street and persons in the parking lot.
 - (ii) The buffer for the parking lot shall be located on the exterior of the parking lot, immediately adjacent to the curbed and paved areas.
 - (iii) The buffer for the parking lot shall be a minimum of five feet, and an average of seven feet in width along the entire length of the perimeter of the parking lot. The width of the buffer may vary to allow for design creativity, as long as a minimum width of five feet is maintained.

- (iv) The parking lot buffer shall have a minimum of:
 - a. Four canopy trees for every 100 lineal feet of buffer.
 - b. Two understory/ornamental trees per 100 lineal feet of buffer.
 - c. A continuous opaque screen of shrub material parallel to the parking lot area. The shrubs may be arranged in a linear or curvilinear pattern, as long as the screen does not have any visual breaks. The parking lot screen shall reach 36 inches in height within three years.
 - d. Other landscaping materials provided to meet any other requirement of this section may be considered a part of and count toward the requirement parking lot buffer, if such materials are located within 30 feet of the parking lot area.
- (v) Any area of the parking lot buffer that is not covered in trees or shrubs shall be planted in ground cover, turfgrass or mulch. It is recommended that the area adjacent to the wheel stop is planted in turfgrass for maintenance purposes.
- (vi) Except for large retail establishments, up to 50 percent of the parking lot buffer on any single lot side may be replaced with a short fence or wall that is a minimum height of three feet. The wall may be wood, decorative stucco or brick that matches the theme or materials of the development it is associated with. The minimum tree canopy requirements still apply.

(3) *Perimeter buffers.*

- (a) *Applicability.*
 - (i) Development subject to the standards of this section shall provide a perimeter buffer to separate that use from adjacent land uses in accordance with Table 6.2-1, Perimeter Buffer Classifications. The perimeter buffer shall have the width, amount of vegetation, and other features to properly mitigate negative effects of continuous uses.
 - (ii) Development located within the CSV, AG, CBD and PD districts shall not be required to provide a perimeter buffer in accordance with the requirements of this section.
- (b) *Types of buffers.* Table 6.2-1, Perimeter Buffer Classifications, in this subsection describes the four different types of buffers and their optional configurations. Any one of the three optional configurations may be utilized to meet the standards of this subsection. In cases where an option utilizing a fence is selected, the fence shall comply with the standards of Section 6.3, Fencing standards. If an existing tree proposed to remain is being used as credit towards perimeter buffer, it must be located within the area designated for that perimeter buffer. Trees required for buffering shall be distributed evenly along each perimeter, except that up to 33% of the required number of trees may be clustered.

Table 6.2-1. Perimeter Buffer Classifications

Buffer Type and Configuration	Screening Requirement Within Buffer Yard		
	Option 1	Option 2	Option 3
A. Basic This buffer area functions as basic edge demarcating individual properties with a slight visual obstruction from the ground to a height of ten feet	One canopy tree every 60 linear feet, plus one understory or ornamental tree per 60 linear feet	One canopy tree every 60 linear feet, plus one hedge	One four-foot high berm or fence
B. Aesthetic This buffer area functions as an intermittent visual obstruction from the ground to a height of at least 20 feet, and creates the impression of spatial separation without eliminating visual contact between uses	One canopy tree every 50 linear feet, plus one understory or ornamental tree every 40 linear feet	One canopy tree every 40 linear feet, plus one hedge	One four-foot berm or fence, plus one canopy tree every 40 linear feet
C. Semi-opaque This perimeter buffer functions as a semi-opaque screen from the ground to at least a height of six feet	1 canopy tree every 30 linear feet, plus one evergreen hedge	1 canopy tree every 30 linear feet, plus one shrub per eight linear feet	One fence or wall, plus one canopy tree every 30 linear feet
D. Opaque This perimeter buffer functions as an opaque screen from the ground to a height of at least six feet. This type of buffer prevents visual contact between uses and creates a strong impression of total separation	One canopy tree every 25 linear feet, one understory tree every 40 linear feet, plus one evergreen hedge	One canopy tree every 25 linear feet, one understory tree every 35 feet, plus one shrub hedge per five linear feet	One fence or wall, plus one canopy tree every 25 linear feet

- (c) *Buffer class application.* Table 6.2-2, Buffer Class Application, below specifies the type of landscaped perimeter buffer that must be installed adjacent to an existing use or vacant land. The proposed uses are designated with their associated use class and cross-referenced with the numbered columns along the horizontal row under the adjacent use heading. The buffer type is indicated by letter and the total buffer width in feet is indicated by number.

Table 6.2-2. Buffer Class Application

Letter = Buffer type; Number = Required width in feet

A = Type A; B = Type B; C = Type C; D = Type D; N = No buffer required

Proposed Use	Adjacent Use									
	Residential Uses			Public and Institutional Uses			Commercial Uses			
	1	2	3	4	5	6	7	8	9	10
Residential uses										
1	Single-family detached dwelling, manufactured home, mobile home	N	N	N	B <u>7.5</u>	N	N	N	N	N
2	Single-family attached, two- to four-family dwelling, townhouse development	C 10	A 10	B 10	C <u>7.5</u>	B <u>7.5</u>	A 5	N	N	N
3	Multiple-family development, cottage neighborhoods, group living uses	D 10	B 10	A 10	D <u>7.5</u>	C <u>7.5</u>	A <u>7.5</u>	N	N	N
Public and institutional uses										
4	Parks and open areas	N	N	N	N	N	N	N	N	N

5	Community services, day care, educational facilities, institutions	C 15	B 15	A 15	C 10	A <u>7.5</u>	B <u>7.5</u>	B <u>7.5</u>	A <u>7.5</u>	A 5	A 5
6	Animal services, government facilities, health care facilities, public safety, transportation, utilities	D 15	C 15	B 15	D 10	B <u>7.5</u>	A <u>7.5</u>	B <u>7.5</u>	A <u>7.5</u>	A 5	A 5

Business uses

7	Eating establishment (except drive-through), conference and training center, offices, retail sales and service (50,000 gross sq. ft. or less), indoor recreation/entertainment, sexually oriented business, visitor accommodation	D 25 ¹	C 15 ¹	B 15 ¹	D 15	C 10	C 10	A 5	A 5	B <u>7.5</u>	B 5
8	Drive-through eating establishment, retail sales and service (more than 50,000 gross sq. ft.), outdoor recreation/entertainment	D 25 ¹	D 15 ¹	C 15 ¹	D 15	D 10	D 10	C <u>7.5</u>	A <u>7.5</u>	C <u>7.5</u>	B 5
9	Commercial parking, self-service storage, vehicle sales and services	D 15	D 15	C 15	D 15	D 10	D 10	C <u>7.5</u>	C <u>7.5</u>	A <u>7.5</u>	B 5
10	Industrial services, manufacturing and production, warehouse and freight movement, waste-related services, wholesale sales	D 20	D 20	D 20	D 15	C 10	C 10	B <u>7.5</u>	B <u>7.5</u>	B <u>7.5</u>	A 5

¹ In cases where a business property containing a freestanding restaurant abuts a residential district, the buffer shall be a minimum of 30 feet in width.

- (d) *Responsibility for perimeter buffer installation.*
- (i) Where a developing parcel is adjacent to a vacant parcel, the developing parcel may provide one-half of the perimeter buffer required adjacent to the vacant land in accordance with Table 6.2-2, Buffer Class Application. Determination of the required buffer width and type shall be based upon the highest use classification available for the vacant property based upon its current zoning.
 - (ii) Where a developing parcel is adjacent to an existing use, then the developing parcel shall provide the full buffer required adjacent to the existing use as indicated in Table 6.2-2, Buffer Class Application, unless a perimeter buffer meeting the standards of this section already exists on either lot. Where a perimeter buffer exists, but does not meet the standards of this section, the developing use shall be responsible for providing all the additional planting material necessary to meet the standards of this section.
- (e) *Location of perimeter buffers.*
- (i) The perimeter buffers required by this section shall be located along the outer perimeter of the parcel and shall extend to the parcel boundary line or right-of-way line; however, the buffers may be located along shared access easements between parcels in nonresidential developments.
 - (ii) Within shopping centers or other nonresidential centers or developments, the perimeter buffer area between outparcels in the same development may be provided, totally or in part, elsewhere on the site. For example, a 20-foot buffer between uses may be shifted elsewhere on the site (preferably within the site's interior) as long as the total area is provided for. The intent of this subsection is to provide for more flexibility in site design and to potentially save large natural areas that may exist elsewhere on the site.
- (f) *Development within perimeter buffers.*
- (i) The required buffer shall not contain any development, impervious surfaces, or site features that do not function to meet the standards of this section or that require removal of existing vegetation, unless otherwise permitted in these LDRs.
 - (ii) No grading, development, or land disturbing activities shall occur within the buffer unless approved by the LDR Administrator.
 - (iii) Sidewalks and trails may be placed in perimeter buffers, provided damage to existing vegetation is minimized.
 - (iv) Except for stormwater management facilities and necessary direct interconnections to existing systems, utilities are not permitted in perimeter buffers.
- (4) *Credits for preservation of existing trees preserved.* Canopy or ornamental/understory trees that are in very good to excellent health, that are protected before and during development of the site and maintained thereafter in a healthy growing condition, can be used to comply with up to 75% of the landscaping standards for Subsections 6.2.2(D)(1), Site landscaping; 6.2.2(D)(2), Parking lot landscaping; or 6.2.2(D)(3), Perimeter buffers, of this section. Credits for the preservation of existing canopy or ornamental/understory trees will be based on the standards in Table 6.2-3, Credit for Existing Trees Preserved.

Table 6.2-3. Credit for Existing Trees Preserved

Size of Tree (DBH in inches) (measured 4½ feet from natural ground level)	Number of Trees Credited
3.00—9.99	1
10.00—19.99	3
20.00—29.99	6
30.00—39.99	12
40.00—49.99	20
50.00 or more	25

- (5) *Credits for the provision of pedestrian amenities.* The amount of required site landscaping or required vegetation in a perimeter buffer may be reduced by up to ten percent based on the provision of three or more of the following pedestrian amenities, which shall be located adjacent to a sidewalk or multiuse trail:
- (a) Benches;
 - (b) Exercise equipment;
 - (c) Playground equipment;
 - (d) Fountains or other water features;

- (e) Gazebos or other gathering places;
 - (f) Pedestrian-scale lighting;
 - (g) Raised planters meeting the requirements of this article; or
 - (h) Public art features.
- (6) *Credits for the provision of natural wooded open space.* The amount of required site landscaping or required vegetation for any required site landscaping, perimeter (except for arterial buffering), or parking lot landscaping or buffering may be reduced by no more than 35 percent if a minimum 50-foot buffer (at a rate of two canopy trees per each 50 feet linear feet and two understory/ornamental trees per each 50 feet) is provided upon any side or rear of the site that meets the following conditions:
- (a) If located along a perimeter of the property, this natural wooded open space may count towards any required buffer, unless located adjacent to existing single-family residential development or vacant lands zoned A, CSV, RSF-1, RSF-3, RSF-4 or RSF-6 in which case this natural wooded open space area buffer must be in addition to any required buffer.
 - (b) Total natural wooded open space must be designated on the site plan as such and meet the minimum area requirements found in the table below:

Development Area in Acres	Natural Wooded Open Space Designated Area (% of Development Area)
Less than 1 acre	15%
1.00—2.99 acres	15%
3.00—4.99 acres	14%
5.00—6.99 acres	13%
7.00—8.99 acres	12%
9.00—9.99 acres	11%
10 acres or more	10%

- (c) Development within this area shall be prohibited except for: Underground utilities, unpaved paths, paved paths not exceeding ten feet, and limited lighting along any paths.

The amount of required vegetation or landscaping may be further reduced to no more than 50 percent if either or both of the following conditions are met, in addition to the conditions found in Subsections (a), (b), and (c) above:

- (d) The proposed natural wooded open space area is contiguous with a previously approved natural wooded open space (a minimum of 50 feet contiguous for development sites three acres or less in area and a minimum of 100 feet contiguous for development sites more than three acres).
- (e) The proposed natural wooded open space area is contiguous with a publicly owned property a minimum of ten acres in size with a zoning designation of Conservation (CSV).

(7) *Xeriscaping and Florida Friendly Landscaping Standards.*

- (a) *Purpose and intent.*
 - (i) *Purpose.* The purpose of these standards is to establish minimum standards for the development, installation, and maintenance of landscaped areas on a site with water use efficiency as a goal, without inhibiting the use of creative landscape design. Xeriscape encourages specific water conservation measures including the re-establishment of native plant communities, the use of site-specific plant materials, and the use of native vegetation.
 - (ii) *Intent.* The intent of this section is to:
 - a. Recognize the need for and protection of groundwater as a natural resource through the application of enhanced xeriscape practices;
 - b. Ensure water-efficient landscaping is used to the maximum extent practicable to maximize the conservation of water by using site-adapted plants; and
 - c. Ensure efficient watering methods are used that will generally result in a reduction of irrigation requirements, costs, energy, and maintenance.
- (b) *Standards.* Development requiring landscaping or perimeter buffers in accordance with this section shall comply with the following xeriscape standards:
 - (i) *Preserve and maintain native vegetation.* Existing and native vegetation shall be maintained and preserved to the maximum extent practicable.
 - (ii) *Group plant material into water use zones based on water needs.* Plant material shall be located in water use zones according to the water needs of the genus and species, as follows:
 - a. *High water use zones.* Where plant material associated with moist soils is located that requires supplemental water in addition to natural rainfall. Plant material that falls in the high water use zone shall be limited to less than 50 percent of the total landscaped area of the site.
 - b. *Moderate water use zones.* Where plant material can survive on natural rainfall with supplemental water during seasonal dry periods.
 - c. *Low water use zones.* Where plant material can survive on natural rainfall with no supplemental water.

- (iii) *Ensure plant types are appropriate for soils.* Plant types appropriate for the soils on the site shall be used, and enhanced, if needed, to give the soil more moisture retention capabilities.
- (iv) *Use of mulch.* Mulches shall be used and maintained around all trees located in landscaped areas not planted or not appropriate for growing turfgrass or ground cover, and in all planted areas.
- (v) *Use of low water use plants.* Plants shall be selected based on their adaptability to the site based on water use, desired effect, color, texture, and mature size. The landscape should be designed to give the desired aesthetic effect and plants should be grouped in accordance with their respective water needs. The use of native or Florida-Friendly species shall be used, to the maximum extent practicable.
- (vi) *Efficient irrigation.* The irrigation system used for landscape shall be designed to correlate to the water use plant zones established in the landscape design. A preliminary irrigation plan shall be submitted at time of site plan, or construction plan application submission with a note that the following standards for irrigating the site shall be used in the design of the system:
 - a. *In the high water use zone.* All portions of the zone shall be provided with an automatic irrigation system with low volume heads that are timed to produce no more than two inches of water per week in established landscapes.
 - b. *In the moderate water use zone.* All portions of the zone shall be provided with a readily available water supply within 100 feet, to supplement natural rainfall when needed, and to help ensure that watering will take place until the plant material is established.
 - c. *In low water use zones.* All portions of the zone shall be provided with a readily available water supply within 50 feet, to supplement natural rainfall when needed, and to help ensure that watering will take place until the plant material is established.
 - d. *Rain sensor devices.* Shall be required on all automatic irrigation systems to avoid irrigation during periods of sufficient rainfall.
 - e. *The irrigation system.* Shall be designed to minimize irrigation overthrow onto impervious surfaces and to negate any ponding effects.
 - f. *Final submission at building permit or construction plans application.* A final irrigation plan shall be submitted at the time of building permit application or construction plan application and shall be reviewed to ensure that the design standards found in this subsection have been met.
- (vii) *Maintenance.* Proper maintenance shall be used to preserve and enhance the quality of the landscape. As part of the submitted landscape plan, a maintenance schedule must be submitted addressing the following: The checking, adjusting, and repairing of the irrigation system, and the resetting of the irrigation schedule according to the season, remulching, fertilizing, weeding, pruning, and mowing.
- (viii) *Drip irrigation or emitters.* Landscapes that apply all of the xeriscape principles may use drip irrigation or emitters for the planted area until the plant material is established.
- (ix) *Incentive for 100 percent Florida Friendly Landscaping.* The amount of any required site or perimeter buffering landscaping may be reduced by ten percent if the development area is completely (100 percent) landscaped using Florida Friendly practices and plant material as certified by a registered landscape architect. For subdivisions subject to these landscape requirements, a restrictive covenant must be included that requires

individual lot owners to maintain Florida Friendly landscaping on their lots and, if applicable, requires the home owners association to maintain Florida Friendly landscaping in common areas.

(8) *Time for installation of landscaping.*

- (a) *Approved by City.* The installation of landscape for all development projects shall be complete, inspected and approved by the City prior to the scheduling of any final inspection.
- (b) *Completeness.* Completeness shall be based on compliance with the standards of this section and the landscape plan. The landscape of the subject development site shall be free from trash or construction debris, plastic pots or containers from the installation and miscellaneous debris associated with the landscape installation.

(9) *Plantings.* Landscape plantings shall comply with the following standards:

- (a) *Plant types.* Plantings shall be categorized as one of the following plant types:

- (i) Canopy trees;
- (ii) Understory/ornamental trees;
- (iii) Shrubs;
- (iv) Vines;
- (v) Groundcover;
- (vi) Annual/Perennial flowers.

- (b) *Plant size.*

- (i) Plant material to comply with "Florida #1" grade quality standard or better as defined and specified within the latest edition of the "Florida Grades and Standards for Nursery Plants" as published by the Florida Department of Agriculture and Consumer Services, Division of Plant Industries. Provide healthy, vigorous stock grown in a recognized nursery in accordance with good horticultural practices and free of disease, pests, and defects.
- (ii) Canopy trees shall be a minimum of eight feet in height with a minimum caliper of two inches.
- (iii) Ornamental or understory trees shall have a caliper of one and one-half inches at time of planting.
- (iv) Palm trees may be utilized as landscaping trees but at an increased ratio of 3:1 replacement and shall be a minimum of eight feet tall at the time of planting.
- (v) Shrubs shall be a minimum of three gallons and groundcovers shall be a minimum of one gallon.
- (vi) To curtail the spread of disease or insect infestation in plant species, new plantings shall comply with the following standards:
 - a. When fewer than 20 trees are required on a site, no more than 50 percent shall be of one type;
 - b.

- When more than 20 but fewer than 40 trees are required to be planted on site, no more than 50 percent of the required plantings shall be of one single species; or
- c. When 40 or more trees are required on a site, no more than 50 percent of the required trees shall be of one single species.
- (vii) Landscape plant materials shall be placed in accordance with either the standardized landscape specifications or best practices adopted by the Florida Nurserymen's Association or the Florida Society of Landscape Architects.
- (c) Raised planters, planter boxes, or raised landscape beds may be utilized to meet landscape requirements for understory tree, ornamental tree, or shrub numerical requirements if the following standards are met:
- (i) For rectangular shaped planters or boxes: Must be a minimum of five feet in width and 12 inches in height; or
 - (ii) For all other shaped planters or beds (such as round or oval planters): Must be a minimum of 28 inches in height and have a diameter of 36 inches or a circumference of 132 inches; and
 - (iii) Must be constructed of or must be clad in a material similar in nature and/or color of the cladding of the principal structure located on the site.
- (10) *Alternative landscape plan.*
- (a) *Generally.* An alternative landscape plan may be used where unreasonable or impractical situations would result from application of this section, or to replace a damaged tree pursuant to Subsection 6.2.1 of this section, alternative plans, materials or methods may be justified from natural conditions, such as streams, natural rock formations, topography and physical conditions related to the site. Also, the lot configuration and utility easements may justify an alternative landscape plan.
 - (b) *Allowable deviations.* The LDR Administrator shall approve an alternative landscape plan. Allowable deviations from the standards of this section include, but are not limited to the following:
 - (i) A reduction in the total number of required trees and/or alteration of the spacing requirements between trees when underground connections to public facilities or public utilities, or public easements or rights-of-way, are located upon or in close proximity to the parcel or whenever a fewer number of trees would be more desirable in terms of good landscape planning practice.
 - (ii) A reduction in the count, spacing, or species diversity standards which would be more desirable in terms of good landscape planning practice considering the nature of the parcel and adjacent parcels.
 - (iii) Up to a 33 percent reduction in the total number of required trees provided that the cumulative caliper size of all trees to be planted meets or exceeds the total caliper inches that would have been provided otherwise.

(E) *Installation of landscaping.*

- (1) *Time limit.* All landscaping, including mulching and seeding, shall be completed in accordance with the approved site plan (Section 2.4.9), subdivision (Section 2.4.10), planned development (Section 2.4.3), or building permit, prior to issuance of an occupancy permit unless the LDR Administrator grants an exception to meeting this requirement due to extreme weather conditions. In this case, an irrevocable letter of credit shall be in place to ensure that all

landscaping requirements will be met at a predetermined later date. The installation of these requirements shall comply with the required planting standards set forth in this section.

(2) *Extensions and exceptions.* The LDR Administrator may grant exceptions and extensions to the above time limit in the following circumstances and under the following conditions:

- (a) Exceptions may be granted due to unusual environmental conditions, such as drought or freezing conditions. In such cases, the LDR Administrator may issue a conditional occupancy permit for a period of 30 to 180 days, depending on the Administrator's recommendation for the next earliest planting season.
- (b) Exceptions may be granted due to the substitution or unavailability of plant species or acceptable plant size as specified in the landscape plan in cases where such materials are not commercially available within a reasonable time.
- (c) Exceptions may be granted due to circumstances beyond the developer's or landowner's control, such as incomplete construction or utility work to occur in a proposed landscaped area within 30 days after expected site completion, provided the developer or landowner submits a letter from the utility company stating the estimated installation date. In such cases, the LDR Administrator may issue a conditional occupancy permit for a defined period not to exceed 30 days.

(F) *Maintenance of landscaping.* The landowner shall be responsible for the maintenance of all landscaping installed to comply with the standards of this section for a period of one year after the occupancy permit is issued. Such areas shall be maintained in accordance with the approved landscape plan. All plant life shown on a landscape plan shall be replaced if it dies, is seriously damaged, or removed.

(1) *Damage due to natural occurrence.* In the event that any vegetation or physical element functioning to meet the standards of this section is severely damaged within the first year after issuance of the occupancy permit due to an unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild or domestic animals, the landowner shall be required to replant if the landscaping standards are not being met. The landowner shall have one growing season to replace or replant. The LDR Administrator shall consider the type and location of the landscape buffer or required vegetation area as well as the propensity for natural revegetation in making a determination on the extent of replanting.

(2) *Protection during operations.* The landowner should take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations. Plants must be maintained in a way that does not obstruct sight distances at roadway and drive intersections, obstruct traffic signs or devices, and/or interfere with the use of sidewalks or pedestrian trails.

(G) *Inspections.* The development project shall be inspected on a periodic basis by the owner during the first year after the issuance of the certificate of occupancy to ensure that all of the plant material is healthy and vigorous. If at any time, any plant material appears to be dead or dying it shall be replaced at the landowner's expense with a plant that is the same genus, and size as the plant that is replaced.

(H) *Limitations of Incentives and Reductions.* Reductions in minimum landscaping required may be combined (stacked) except that, unless otherwise explicitly stated, the minimum requirement for any individual landscaping requirement shall not be reduced to less than 20% of the minimum required.

- (I) The Land Development Regulations Administrator may establish technical standards setting forth administrative guidelines governing the enforcement of this section, requirements not specifically addressed in this section, and any other information needed for the uniform and orderly administration of this section. Such standards may be published in a technical manual which shall be on file in the office of the City Clerk.

6.2.3 Screening standards.

(A) Applicability.

- (1) *Generally.* Screening shall be required to provide a visual buffer around the following accessory uses. Screens shall be opaque and consist of vegetation and walls and/or fences. Screens shall be maintained in perpetuity by the landowner in a form acceptable to the City.
- (2) *Time of compliance.* A landscape plan shall be submitted with an application for a site plan (Section 2.4.9), subdivision (Section 2.4.10), planned development (Section 2.4.3), or building permit, whichever occurs first, for any development that is required to comply with the standards of this section, demonstrating how the development proposes to comply.

(B) Waste receptacles.

Waste receptacles shall be screened with one of the following materials:

- (1) A solid fence at least six feet in height constructed of wood, masonry, stone, finished (non-reflective) metal, or other similar materials, or
- (2) Landscaping using evergreen materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting.

Sides which provide service access to waste receptacles shall be gated. Gates shall be constructed of a material consistent with the screening material all other sides of the receptacle, except when using evergreen materials to screen the sides of the receptacles. In such instances, a material consistent with Section 6.2.3(B)(1) shall be utilized.

(C) Service areas.

Service areas shall be screened with either a solid wood, masonry, stone, or finished (non-reflective) metal fence, or a fence constructed of other similar materials, at least six feet in height or landscaped using evergreen materials capable of providing a substantially opaque hedge-like barrier and attaining a minimum height of six feet within three years of planting.

(D) Mechanical equipment.

Mechanical equipment shall be screened with either a solid wood, masonry, stone, or finished (non-reflective metal) fence, or a fence constructed of other similar materials, at least three feet in height or a landscaping screen, using evergreen materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of three feet within two years of planting.

(E) Arterial frontage.

Arterial frontage shall be screened with a series of canopy and understory trees, shrubs and ground cover, as follows:

- (1) *Canopy trees.* Four canopy trees every 100 lineal feet of arterial frontage placed approximately every 25 feet; the width of the paved driveways at the property lines shall not be counted towards the arterial frontage requirement;
- (2) *Understory/ornamental trees.* Three understory/ornamental trees every 100 lineal feet of arterial frontage;
- (3) *Shrubs and ground cover.* A continuous row of shrubs or groups of shrubs that forms an opaque screen for the entire length of arterial frontage; or

- (4) *Alternative screening.* An alternative screen consisting of a solid wood fence at least six feet in height with the minimum number of canopy trees to provide a substantially opaque barrier.
- (F) *Screening methods.* The following items are permitted for use as screening materials. Alternative screening materials that are not listed may be used if it is determined by the LDR Administrator they are comparable to the screening materials required by this subsection.
- (1) *Vegetative material.* Planting materials that provide substantial opacity and minimum height of six feet within three years of planting.
 - (2) *Wooden fence.* When wood fences are used, a solid wood fence of treated wood or rot-resistant wood, such as cypress or redwood, shall be used. Chainlink, barbed wire, stock wire, hog wire, chicken wire, and similar type fences are not permitted.
 - (3) *Masonry walls.* When masonry walls are used, they shall be constructed of brick, textured concrete masonry units, or stuccoed block.

(Ord. No. 14-08, § 3(Exh. A), 9-8-14; Ord. No. 19-05, § 3(Exh. A), 1-14-2019; Ord. No. 22-01, § 3(Exh. A), 10-11-2021)

Sec. 6.3. - Fencing standards.

6.3.1 Applicability.

- (A) The provisions of this section shall apply as set forth herein.
- (1) *Generally.* The provisions of this section shall apply to all construction, substantial reconstruction, or replacement of fences, retaining walls not required for support of a primary or accessory structure, or any other linear barrier intended to delineate different portions of a lot. In the event of any inconsistency between the provisions of this section and any screening requirement under Section 6.2.3, the latter shall govern.
 - (2) *Time of compliance.* A plan shall be submitted with an application for a site and development plan (Section 2.4.9), subdivision (Section 2.4.10), planned development (Section 2.4.3), or building permit, whichever occurs first, for any development that is required to comply with the standards of this section, demonstrating how the development processes to comply.
 - (3) *Exemption for security plan.* The owner or tenant of any property in the business districts may submit to the LDR Administrator a security plan that indicates that fences or walls taller than those permitted in Section 6.3.3(B). The owner or tenant of any property in the Corporate Park (CP) district may submit to the LDR Administrator a site security plan that indicates fences or walls not otherwise meeting the standards of this Section 6.3 are necessary to protect the public health, safety, comfort, convenience, appearance, prosperity, or general welfare. The LDR Administrator shall only approve the site security plan, or approve it with conditions, if it is determined that:
 - (a) Materials or property in significantly greater danger than surrounding properties:
 - (i) The condition, location, or use of the property, or the history of activity in the area, indicate the property or materials stored or used on the property are in greater danger of theft or damage than the surrounding properties; or
 - (ii) The materials stored or used on the property may impact the public health, safety, comfort, convenience, appearance, prosperity, or general welfare; and

(b) *Deviation will not have adverse effect.*

The additional height of the fences or walls or other deviations from the standards of this Section 6.3 as indicated in the site security plan will not have an adverse effect on the security, functioning, appearance, or value of adjacent properties or the surrounding area as a whole.

6.3.2 General standards.

- (A) *Location.* Fences are permitted on the property line between two or more parcels of land held in private ownership.
- (B) *Temporary fences.* Temporary fences for construction sites or for a similar purpose shall comply with requirements of the building code adopted by the City.
- (C) *Fences in easements.* Fences may be permitted within easements. However, the City shall not be responsible for the repair or replacement of fences that must be removed to access such easements.
- (D) *Blocking natural drainage flows.* No fence shall be installed so as to block or divert a natural drainage flow onto or off of any other property.
- (E) *Fences on retaining walls or berms.* If a fence is constructed on top of a wall or berm, the combined height of the fence and wall or berm shall not exceed the maximum height that would apply to a fence or wall alone.
- (F) *Fences and walls within buffers and streetscape landscaping areas.* Fences and walls shall be installed so as not to disturb or damage existing vegetation or installed plant material.

6.3.3 Height. All fences and walls shall conform to the following standards. In all cases, heights are measured from natural grade.

- (A) *Residential districts.* Fences and walls, including retaining walls, shall not exceed a height of four feet in front yards and eight feet in side and rear yards. Any fence installed in a front yard shall be of no greater than 50 percent opacity (that is, shall obscure no more than 50 percent of the view into the property). If a fence is constructed on top of a retaining or other wall, the combined height of the fence and wall shall not exceed a maximum height of 16 feet.
- (B) *Business districts.* Fences and walls, including retaining walls, shall not be permitted in front setback areas, and shall not exceed a height of six feet on the remainder of front yards and ten feet in side or rear yards. If a fence is constructed on top of a retaining or other wall, the combined height of the fence and wall shall not exceed a maximum height of 16 feet.
- (C) *Exemption for recreational fencing.* Customary fencing provided as a part of a tennis court, ball field, or other recreational facility shall be exempt from the height restrictions of this section. Nothing in this subsection shall be construed to exempt the remainder of a recreational facility in a residential district from the applicable height standards.

6.3.4 *Perimeter fences abutting public rights-of-way.* For purposes of this subsection, the term "perimeter fences and walls" means any fence or wall that is 36 inches or more in height and within 50 feet of the edge of the right-of-way of an arterial or collector road. Development that abuts arterial or collector roads is not generally required to have perimeter fences and walls between the primary structures and the abutting arterial or collector road, except where such fences or walls are required to meet the screening requirements of Section 6.2. Where a landowner/developer chooses to install perimeter fences and walls, they shall comply with the following standards:

(A) *General standards.*

- (1) *Uniform style.* The perimeter fences and walls for a single development shall be of a uniform style that meets the standards of this subsection in order to provide visual interest in an orderly manner.
- (2) *Not located between utility easement and arterial or collector road.* Perimeter fences and walls shall not be located between the utility easement and an arterial or collector road.
- (3) *Maintained in safe and attractive condition.* Perimeter fences and walls shall be maintained in a safe and attractive condition, including but not limited to replacement of missing, decayed, or broken structural and decorative elements, structural maintenance to prevent and address sagging, and repainting.
- (4) *Materials.* Perimeter fences and walls visible from the public right-of-way shall consist of the following materials: wood, stone, brick, wrought iron, or products designed to resemble these materials. Galvanized chainlink is prohibited. Black or green vinyl coated/PVC coated chainlink fences are permitted except when visible from an arterial or collector road.
- (5) *Maximum length of unbroken wall plane.* The maximum length of unbroken perimeter wall plane shall be 200 feet. A break in the plane of a fence or wall may be achieved by a break in the length of the wall or fence that is at least two feet long (measured parallel to the street), and at least two feet wide (measured perpendicular to the street).

(B) *Additional standards for fences and walls along arterial streets.* The following additional standards shall apply to perimeter fences and walls along arterial roads:

- (1) *Maximum length of continuous fence or wall.* The maximum length of a continuous perimeter fence or wall without interruption by vehicle or pedestrian access shall be 1,200 feet.
- (2) *Landscape breaks may be used to break.* Landscape breaks that are at least two feet long may be used to break the continuous fence or wall plane. Landscape breaks shall be set back from the street at least three feet further than the fence plane and shall be landscaped with at least three canopy trees for each 80 linear feet of break and at least two rows of shrubs or native understory trees including seasonal color and plant variety.
- (3) *Pedestrian entries may be used to break.* Pedestrian entries may be used to break the continuous perimeter fence or wall plane if they include architectural features, decorative elements or landscaping.
- (4) *Transparent fence may be used to break.* Sections of transparent fence may be used to break the continuous fence plane, provided that any chainlink fencing used for this purpose is not visible from the right-of-way or lands designated for residential use, and provided the section is transparent from no less than three feet above grade and for a linear distance of no less than two feet, and both sides of the section are landscaped with shrubs and trees for a depth of at least four feet on each side of the fence.

6.3.5 *Prohibited fences.*

- (A) *Materials.* Fences shall be constructed of customary fencing materials, including solid wood, masonry, stone or decorative metal materials. Where materials are specified for particular types of screening or buffering for fences or walls, all other fence materials are prohibited.

- (B) *Chainlink fences prohibited.* Chainlink fences are prohibited except when not visible from the public right-of-way; when located on any land with a residential zoning designation; when located on the site of a minor utility as described in Section 10.2 of these LDRs; or when used as customary fencing for a tennis court, ball field, or other recreational facility. Black or green vinyl coated/PVC coated chainlink fences are permitted except when visible from an arterial or collector road.
- (C) *Barbed wire and above ground electrified fences prohibited.* Barbed wire fences and aboveground electrified fences are prohibited in all zone districts, except the agricultural district when used to contain livestock. Underground electric fences designed for control of domestic animals are permitted.
- (D) *Debris, junk, rolled plastic, sheet metal and other waste materials.* Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood or waste materials are prohibited in all zone districts, unless such materials have been recycled and reprocessed into building materials marketed to the general public and resembling new building materials.

6.3.6 *Appearance.* When fences face a public street, if one side of the fence appears more finished than the other (i.e., one side has visible support framing and the other does not), then the more finished side of the fence shall face the perimeter of the lot, rather than facing the interior of the lot. This provision is not required for fencing installed in agricultural zones for the purpose of fencing in agricultural animals.

6.3.7 *Maintenance.* All fences and walls shall be maintained in good repair. Any deteriorated, damaged or decayed fence material shall be promptly repaired, and any fence or wall post or section that leans more than 20 degrees from vertical shall be promptly repaired to correct that condition.

(Ord. No. 12-04, § 4, 12-12-2011; Ord. No. 12-06, § 3, 1-23-2012; Ord. No. 14-08, § 3(Exh. A), 9-8-2014; Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

Sec. 6.4. - Exterior lighting standards.

6.4.1 *Purpose.* All site lighting should be designed and installed to maintain adequate lighting on site and provide security for people and land, through the use of fixtures that are durable, yet avoid the use of tall light fixtures that unnecessarily disperse light and glare to surrounding lands.

6.4.2 *Applicability.*

- (A) *Generally.* The provisions of this section shall apply to development of any multifamily dwellings, townhome dwellings, two- to four-family dwellings, public and institutional uses, business uses, or recreational features associated with a single-family use.
- (B) *Time of compliance.* A photometric plan shall be submitted with an application for a site plan (Section 2.4.9), subdivision (Section 2.4.10), planned development (Section 2.4.3), or building permit, whichever occurs first, for any development that is required to comply with the standards of this section, demonstrating how the development proposes to comply.
- (C) *Exemption for security plan.* The owner or tenant of any property in the Corporate Park (CP) district may submit to the LDR Administrator a site security plan that indicates lighting fixtures, fixture height, or other provisions which otherwise do not meet the standards of this Section 6.4 are necessary to protect the public health, safety, comfort, convenience, appearance, prosperity, or general welfare. The LDR Administrator shall only approve the site security plan, or

approve it with conditions, if it is determined that the deviations from the standards of this Section 6.4 as indicated in the site security plan will not have an adverse effect on the security, functioning, appearance, or value of adjacent properties or the surrounding area as a whole.

6.4.3 General standards.

- (A) *Hours of illumination.* Lands on which public and institutional uses or business uses are located (see Table 4.1-1, Table of Allowed Uses), that are adjacent to existing residential development or vacant land in residential districts, shall turn off all lighting during nonoperating hours, except lighting that is necessary for security, safety, or identification purposes. The public and institutional uses and business uses may activate on-site motion sensor devices for emergency purposes.

6.4.4 Design standards.

- (A) *Wall-mounted lights.* Wall-mounted lights shall have fully shielded luminaires (such as shoebox or can-style fixtures) to direct all light downward, and to prevent the light source from being visible from any adjacent residential development, vacant land in a residential district, or public street. Wallpack lights visible from any location off of the site are prohibited.

(B) *Direction of lighting.*

- (1) *No light source directed outward.* No light sources shall be directed outward toward property boundaries or adjacent rights-of-way.
- (2) *No light source directly illuminate building facades visible from residential development.* No light source shall directly illuminate facades of buildings visible from adjacent residential development.
- (3) *Direct lighting of nonresidential development downward.* Lighting of nonresidential development in all residential districts shall be directed downward, except for low-voltage architectural lighting.
- (4) *Illumination of flags, statutes or other objects.* Architectural, landscape, and decorative lighting used to illuminate flags, statues or any other objects shall use a narrowly directed light whose light source is not visible from adjacent residential lands or public streets.

(C) *Maximum horizontal illumination.* Maximum initial horizontal illumination shall not exceed:

- (1) *Residential districts.* Five footcandles at building entries and parking lots for any use located in residential districts;
- (2) *Business districts.* Ten footcandles at building entries and five footcandles in parking lots in the business districts; and
- (3) *Under canopies in CBD, CI, ILW, and IG districts.* 20 footcandles under canopies in any CBD, CI, ILW, and IG districts.

(D) *Maximum initial lamp lumens.* Maximum initial lamp lumens shall not exceed:

- (1) *Residential districts.* 3,500 lumens (50 watts) for five or less parking spaces and 8,500 lumens (70 watts) for six or more parking spaces, in residential districts.
- (2) *Business districts.* 21,500 lumens (250 watts) for five or less parking spaces and 24,000 lumens (400 watts) for six or more parking spaces, in the business districts.

(E) *Uniformity ratios.* The ratio of maximum to minimum lighting on a given parcel or site, measured at ground level, shall not exceed 15:1 in any residential district, and shall not exceed 10:1 in all other districts.

(F) *Shielding.*

(1) *Exterior.* Light fixtures in excess of 60 watts or 100 lumens shall use full cut-off lenses or hoods to prevent glare and spillover from the site onto adjacent lands and roads.

(2) *Interior.* No interior light source shall emit light directly onto adjacent residential development or vacant lands in residential districts.

(3) *Canopies.* No light source in a canopy structure shall extend downward further than the lowest edge of the canopy ceiling.

(G) *Hue.* Lighting sources shall be color-correct types such as halogen or metal halide. Light types of limited spectral emission, such as low-pressure sodium or mercury vapor lights, are prohibited.

6.4.5 *Height standards.*

(A) *Generally.* Lighting fixtures, other than lighting for architectural purposes, shall be no more than 15 feet high, whether mounted on poles or walls or by other means, except that:

(1) *Parking lots with 100 to 250 spaces.* Light fixtures in parking lots with 100 to 250 spaces shall be no more than 25 feet in height;

(2) *Parking lots with more than 250 spaces.* Light fixtures in parking lots with more than 250 spaces shall be no more than 45 feet in height; and

(3) *Parking lots within historic districts.* Light fixtures in parking lots within historic districts should comply with historic district light standards.

6.4.6 *Lighting for canopies.*

(A) *No projection below canopy.* Lighting for canopies shall be restricted to lighting fixtures (including lenses) that do not project below the bottom of the canopy. Lighting for canopies for service stations and other similar uses shall not exceed an average of 12 footcandles as measured at ground level at the inside of the outside edge of the canopy.

(B) *No internal illumination.* Canopies used for building accents over doors, windows, etc. shall not be internally lit (i.e., from underneath or behind the canopy).

6.4.7 *Floodlights and spotlights.* Lighting fixtures used as floodlights or spotlights shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on a portion of the building facade or other intended site feature and away from adjoining land or the right-of-way. On-site lighting may be used to accent architectural elements but shall not be used to illuminate entire portions of buildings. Such lighting shall be installed in a fixture that is shielded so that no portion of the light bulb extends below the bottom edge of the shield, and the main beam from the light source is not visible from adjacent lands or the adjacent right-of-way. Floodlights or other type of lighting attached to light poles that illuminate the site and/or buildings are prohibited.

6.4.8 *Illumination of outdoor sports fields and performance areas.* Lighting of outdoor sports fields and performance areas shall be installed in accordance with the following standards:

(A)

Glare control package. All lighting fixtures shall be equipped with a glare control package (e.g., louvers, shields, or similar devices), and the fixtures shall be aimed so that their beams are directed and fall within the primary playing or performance area; and

(B) *Hours of operation.* The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the game or event.

(Ord. No. 12-06, § 3, 1-23-2012; Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

Sec. 6.5. - Signage.

6.5.1 *Findings and Purpose.*

(A) *Findings.* As a basis for updating and readopting other parts of this sign ordinance in 2017, the City Commission finds that:

- (1) As recognized by the U.S. Supreme Court in City of LaDue v. Gilleo (1994), signs provide an important and inexpensive medium through which citizens can express their opinions on matters of public interest;
- (2) For all businesses, and for small businesses especially, signs provide an important tool for attracting customers;
- (3) Signs are essential way-finding tools that help drivers and pedestrians find the businesses, houses of worship, residences or other locations that they may be seeking; as way-finding tools, signs limit the necessity of driving unnecessary extra miles and reduce the risk of accidents involving lost or confused drivers;
- (4) In business districts, signs often contribute to the ambience, adding color and night-lighting to areas;
- (5) In residential neighborhoods, inappropriate signage can detract from the quiet character that often attracts people to live in such areas;
- (6) Signs of excessive size or in excessive numbers can create clutter and detract from the character of any area of the city, including business districts;
- (7) Several studies have shown that signs distract drivers, sometimes to a dangerous extent;
- (8) Rapidly changing message boards are particularly distracting to drivers as their eyes linger on the signs and away from the road;
- (9) Signs in excessive numbers and of excessive sizes can contribute to reductions or stagnation in property values, particularly in or near residential areas;
- (10) Temporary signs serve many purposes, allowing people to express their opinions on public issues or indicate that a place is for sale or rent or that they are selling family treasures or other goods at a yard or garage sale;
- (11) Temporary signs can contribute substantially to clutter and it is important for the City to attempt to limit that clutter by limiting the number of temporary signs of commercial messages that can be displayed and by setting deadlines for the removal of all temporary signs;
- (12) In attempting to balance the multiple interests outlined in the next section, the City Commission has concluded that it is not wise to limit the number of signs that people can post expressing their opinions on public issues; the City Commission also finds that the tendency to create clutter with signs is somewhat self-limiting in residential areas, as people try to be good neighbors, sometimes with the encouragement of neighborhood associations;
- (13)

Of all signs existing in the City and in surrounding areas, the City finds the least utility and public benefit in billboards or off-site signs, which often advertise products with no relation to the community and with multiple other media through which to communicate their message: for that reason, the City Commission has maintained greater restrictions on the locations of off-site signs than on other commercial signs; and

- (14) Like signs, flags typically communicate messages, and, like signs, they can contribute to a busy or even cluttered skylines, factors that the City Commission has weighed in setting reasonable limits on the numbers of flags displayed and treating flags with commercial messages as commercial signs;
- (B) *Purpose.* This section establishes standards for the area, location, and character of signs that are permitted as principal or accessory uses. No signs shall be permitted in any location except in conformity with this section and these LDRs. The purpose of this section is to achieve a balance among the following goals:
 - (1) Communication. To encourage the effective use of signs as a means of communication for businesses, organizations, and individuals in the City of Alachua;
 - (2) Way-finding. To provide a means of way-finding in the City, thus reducing traffic confusion and congestion;
 - (3) Business identification and advertising. To provide for adequate business identification and advertising;
 - (4) Protect economic and social well-being. To prohibit signs of excessive size and number that they obscure one another to the detriment of the economic and social well-being of the City;
 - (5) Protect public safety and welfare. To protect the safety and welfare of the public by minimizing the hazards to pedestrian and vehicular traffic;
 - (6) Preserve property values. To preserve property values by preventing unsightly and chaotic development that has a blighting influence upon the City;
 - (7) Protecting public interest. To prohibit most commercial signs in residential areas, while allowing residents to use signs to communicate their opinions on matters they deem to be of public interest;
 - (8) Eliminate signs which have the potential to cause driver distraction. To differentiate among those signs that, because of their location, may distract drivers on public streets and those that may provide information to pedestrians and to drivers in their cars by out of active traffic;
 - (9) Minimize adverse impacts. To minimize the possible adverse effects of signs on nearby public and private property; and
 - (10) Consistency with the Comprehensive Plan. To implement the following specific goals of the Comprehensive Plan:
 - (a) To maintain a high quality of life for all of its present and future citizens.
 - (b) To utilize innovative design standards to provide an attractive built environment; and
 - (c) To manage future growth and development.

6.5.2 *Applicability.*

- (A) *Sign permit required.* It shall be unlawful for any person to post, display, erect, or structurally modify a sign or advertising structure in the City without first obtaining a sign permit in accordance with Section 2.4.11, Sign permit, unless a general sign permit is granted in accordance with Section 2.4.11(C), General sign permit granted.
- (B)

Compliance with ordinances and codes. In addition to the provisions of this section, signs or other advertising structures shall be constructed and maintained in accordance with the following City, State and Federal ordinances and codes:

- (1) Florida Building Code, as amended from time to time; and
- (2) Federal Highway Administration's (FHWA) Manual on Uniform Traffic Control Devices (MUTCD) adopted by the State of Florida as Rule 14-15.010, F.A.C.

6.5.3 *Computation of sign area and sign height.* The following principles shall control the computation of sign area and sign height:

(A) *Computation of area of individual signs.*

- (1) *For signs with fixed boundaries, frames and edges.* The area shall be computed by calculating the area within and including the exterior boundaries, frames, or edges enclosing the letters or graphics which compose each sign surface.
- (2) *For signs with no fixed boundaries, frames, or edges.* The area shall be computed on the basis of the smallest triangle, rectangle, square, or circle encompassing the outermost exteriors of the outermost letters, words, numbers, or graphics which yields the least total square footage area. This provision would apply to signs which are composed of separate letters which are placed or painted upon or against a building, window, or other surface not designed, framed, or edged specifically for sign presentation, for example.
- (3) *For double-faced signs.* The area shall be computed by calculating the area of one of the larger of the two faces.
- (4) *For multifaced signs.* The area shall be computed by adding the square footage of each sign face.

(B) *Computation of freestanding sign height.* The height of a freestanding sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. For the purposes of this measurement, normal grade shall be construed to be the lower of:

- (1) The existing grade prior to sign construction; or
- (2) The newly established grade after sign construction exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

6.5.4 *Permanent signs allowed.* The following permanent signs are allowed:

(A) *In residential and agricultural districts.*

- (1) For a residential use, not more than two freestanding permanent signs per lot, each of which shall be limited in size of no more than two square feet each and a height of no more than four feet. Messages, other than commercial messages, including but not limited to names of occupants, address, and expressions of opinions shall be allowed on such signs.
- (2) *Residential neighborhood identification signs.* Residential neighborhood identification signs shall be permitted, subject to the following standards and conditions:
 - (a) Each neighborhood shall be allowed up to two signs, to be located within 200 feet of the primary entrance to such neighborhood from a collector or arterial street;
 - (b) Each such sign must identify a distinct subarea of the City and be located at the entrance to such neighborhood from a collector or arterial street;

- (c) Each such sign must be located on private property in a common area of the neighborhood, controlled by the owner or manager of the area, where applicable, or by a property owners' association representing property owners within the neighborhood;
 - (d) Such sign may be located on a wall or other entrance feature or may be freestanding. If freestanding, such sign shall not exceed six feet in height and shall have continuous foundation or other support under it in the style of what is commonly called a monument sign;
 - (e) No such sign shall exceed 100 square feet in area;
 - (f) Lighting for such sign shall be limited to external, direct white light; indirect and internal lighting and changeable copy are expressly prohibited;
 - (g) The sign must bear no commercial message;
 - (h) Where the application for the sign relates to a neighborhood that has not been built, the location and type of sign shall be shown on the preliminary plat for the neighborhood. Where the application for the sign relates to an existing neighborhood, the applicant shall submit an application for a sign permit. Said sign permit application will include information to demonstrate compliance with this section;
 - (i) The applicant for the sign must own or have the authority to represent the owners of at least 50 percent of the land area to be identified.
- (3) *Institutional uses permitted in residential districts.* The following signs shall be allowed for an institutional use, such as a school or religious institution, lawfully located in a residential district:
- (a) One freestanding sign, provided that such sign and its structure shall not exceed 50 square feet.
 - (b) One wall sign located on the front elevation of the building, provided that no such sign shall exceed 16 square feet.
 - (c) A changeable copy sign may occupy up to 25 square feet of the allowed freestanding sign.
- (B) *In agricultural districts only.*
- (1) Because agricultural districts in a growing community represent a blending of the business of agriculture and residential uses, it is necessary to provide for some types of signs that are not allowed in purely residential districts, but that serve the business of agriculture.
 - (2) For that reason, any agricultural or other business conducted lawfully in an agricultural district shall be allowed one freestanding sign not to exceed 100 square feet in size and not to exceed 16 feet in height.
 - (3) Institutional uses permitted in agricultural districts. The following signs shall be allowed for an institutional use, such as a school or religious institution, lawfully located in an agricultural district:
 - (a) One freestanding sign, provided that such sign and its structure shall not exceed 100 square feet.
 - (b) One wall sign located on the front elevation of the building, provided that no such sign shall exceed 16 square feet.
 - (c) A changeable copy sign may occupy up to 25 square feet of the allowed freestanding sign.
- (C) *In business districts.*
- (1)

Freestanding signs for single-tenant buildings or developments. Except as otherwise provided in these LDRs, freestanding signs are permitted for single-tenant buildings or developments, subject to the following standards:

- (a) Only one freestanding sign is allowed per lot, tract, or parcel, except that a parcel with more than 400 feet of frontage on one or more roads may have two freestanding signs, which must be separated from each other by at least 150 feet of road frontage.
 - (b) The maximum sign area for a freestanding sign and its structure shall not exceed 100 square feet. The maximum area of an individual sign face shall not exceed 50 square feet.
- (2) *Freestanding signs for multi-tenant buildings or developments.* Except as otherwise provided within these LDRs, freestanding signs are permitted for multi-tenant buildings or developments, subject to the following standards:
- (a) A multi-tenant building or development may have one freestanding sign per building/development, except when a building/development has more than 400 feet of frontage on a road, the building/development may have up to two freestanding signs along a road frontage, which must be separated from each other by at least 150 feet of road frontage. In the case of a multi-tenant buildings/development with frontage along more than one road, the building/development may have one additional freestanding sign along the secondary frontage, which must be separated from other freestanding signs by at least 150 feet of road frontage.
 - (b) Freestanding signs which are part of a multi-tenant development may be located on any lot or outparcel which is part of the development. For purposes of this section, a lot or outparcel shall be considered part of a multi-tenant development when:
 - (i) The lot/outparcel upon which a freestanding sign is located is in common ownership with other lots/outparcels which are part of the same multi-tenant development;
 - (ii) The lot/outparcel upon which a freestanding sign is located is subject to a master association with one or more lots/outparcels which are part of the same multi-tenant development;
 - (iii) The lot/outparcel upon which a freestanding sign is located is afforded ingress and egress from a shared access drive connecting between a road, the lot/outparcel upon which the freestanding sign is located, and one or more lots/outparcels which are part of the same multi-tenant development;
 - (iv) The freestanding sign is located on a lot or outparcel which is part of the development and is included within a master sign plan for a Planned Development that has been approved pursuant to Section 3.6.3(A)(5), Section 3.6.3(B)(5)(c), Section 3.6.3(C)(5), or Section 3.6.3(D)(5) of these LDRs; or
 - (v) The freestanding sign is located on a lot or outparcel which is part of the development as shown on a Site Plan (Section 2.4.9) and is included within a sign plan approved as part of a Site Plan. A freestanding sign approved in accordance with this section shall have continuous foundation or other support under it in the style of what is commonly called a monument sign.
 - (c) Signage permitted in accordance with Section 6.5.4(C)(2)(b) shall not be considered off-site signage.
 - (d)

For freestanding signs which are part of a multi-tenant building or development, the maximum sign area of a freestanding sign and its structure shall not exceed 150 square feet. The maximum area of an individual sign face shall not exceed 100 square feet.

- (e) When a freestanding sign which is part of a multi-tenant building or development includes sign area for individual tenants within the building/development, the total sign area dedicated to individual tenants of the building/development shall not exceed 66 percent of the area of the sign and its structure.
- (f) In addition to the freestanding signage permitted pursuant Sections 6.5.4(C)(2)(a)—(e), one freestanding sign may be permitted on a developed outparcel, subject to the following:
 - (i) The outparcel shall have a minimum lot area of 40,000 square feet;
 - (ii) The maximum area of the freestanding sign and its structure shall not exceed 50 square feet;
 - (iii) The maximum height of the freestanding sign shall not exceed ten (10) feet;
 - (iv) Such signs shall be not be located within 100 feet of other freestanding signage.
- (3) *Wall signs.* Wall signs are permitted, subject to the following standards:
 - (a) Each wall sign shall be attached to the building and supported throughout its entire length by the facade of the building.
 - (b) The sign area shall not be greater than ten percent of the square footage of the front elevation of the building on which they are located, with a maximum of 350 square feet in sign area. In the case of corner lots, wall signs shall be permitted along both road frontages. The sign area along each frontage shall not be greater than ten percent of the square footage of the front elevation upon which the signage is located, with a total maximum sign area on all building elevations of 350 square feet in sign area.
 - (c) In the case of multi-tenant buildings, each occupant of the multi-tenant building shall be permitted wall signage for the portion of the building elevation which is included as part of the occupant's premises. Such signage shall be subject to the maximum sign area provisions established in Section 6.5.4(C)(3)(b).
 - (d) Wall signs shall not be erected above the roofline of the building, except that, where there is a parapet, a wall sign may extend to the top of the parapet. Such sign shall not be considered a roof sign.
- (4) *Canopy and awning signs.* In any business district, a canopy or awning sign may be permitted in addition to or in lieu of a wall sign. If the canopy or awning is permitted in addition to a wall sign, the canopy or awning sign area shall be incorporated into the overall sign area total, provided however that the canopy or awning sign area shall not exceed 32 square feet. If the canopy or awning sign is permitted in lieu of a wall sign, the canopy or awning sign area shall not exceed 32 square feet.
- (5) *Changeable copy.* A changeable copy sign, including a sign on which the copy can be changed electronically, may be used for up to one half of the allowed square footage for any freestanding sign, subject to the limitations of Subsection 6.5.4(E) of this section.
- (6)

Interstate-75 corridor signage. In addition to the freestanding signage permitted by Subsection 6.5.4(C)(1)–(2), one additional freestanding sign shall be permitted for a development which abuts Interstate-75, subject to the following standards:

- (a) The maximum height of the sign shall not exceed 24 feet;
- (b) The maximum area of the sign and its structure shall not exceed 150 square feet and the maximum sign area of such signage shall not exceed 100 square feet;
- (c) Such signage shall be located and oriented to achieve a view-shed from Interstate-75;
- (d) Such signage shall be located within 100 feet of the Interstate-75 right-of-way; and,
- (e) The total sign area of all freestanding signs which are part of the development shall not exceed 300 square feet.

(D) *General standards for permanent freestanding signs in residential, agricultural and business districts.*

(1) *Sign height, width and depth.*

- (a) Except as otherwise provided in these LDRs, the maximum height of a freestanding sign and its structure accessory to a residential use in a residential or agricultural district is four feet.
- (b) Except as otherwise provided in these LDRs, the maximum height of a freestanding sign and its structure in a business district is 16 feet.
- (c) The maximum width of a freestanding sign in any district shall not exceed the maximum height allowed for such sign.
- (d) The maximum depth (thickness) of a sign and its structure shall not exceed 48 inches.

(2) *Design limitations along the U.S. 441 Corridor.*

- (a) *Applicability.* The provisions of this subsection 6.5.4(D)(2) shall apply to the following signs located within 200 feet of the right-of-way of U.S. 441, except that those properties with road frontage on U.S. 441 within a distance of 1,000 feet on either side of the I-75 overpass as measured from the outer edge of the I-75 overpass shall follow the standards for signage in business districts.
 - (i) Any freestanding sign located in a business district;
 - (ii) Any freestanding sign located in an agriculture district;
 - (iii) Any freestanding sign accessory to an institutional use in a residential district.
- (b) *Design and support.* Any such sign that has a height of more than six feet or that is more than six square feet in area shall be designed as a monument or ground sign meeting the following standards:
 - (i) There shall be a continuous support between the ground and the bottom of the sign; and
 - (ii) The support system shall be composed of materials identical to or similar in appearance, color and texture to the materials used in the building to which the sign is accessory.

(3) *Setbacks and obstruction of vision.*

- (a) A sign or advertising structure shall be set back at least five feet from the nearest lot line; any freestanding sign or advertising exceeding six feet in height or 32 square feet in area shall be set back from any lot line abutting property zoned for residential use by at least ten feet.
 - (b) No sign shall be located within public rights-of-way. No portion of any sign shall overhang a public right-of-way, except for wall signage located within the CBD zoning district, which shall project no greater than two feet into the public right-of-way and shall comply with Section 6.5.7(H).
 - (c) Signs shall not be located within the vision triangle of an intersection as required under Section 7.2.6, Visibility clearance. Signs shall not be located in such a way as to obstruct the vision of vehicular, bicycle, or pedestrian traffic.
 - (d) No sign shall be located within ten feet of any water or electric system infrastructure or within 15 feet of any stormwater or wastewater infrastructure. No portion of any sign shall overhang within ten feet of any public infrastructure.
- (4) *Address.* The E-911 address of an agricultural use, institutional use, or business use may be included on the sign face or on the sign structure. Inclusion of the E-911 address will not be included in the calculation of the maximum area of the sign face, nor will it cause the sign structure to be included in the calculation of the maximum area of the sign face.
- (E) *Changeable copy signs.* Where changeable copy signs are permitted, an electronic message board or other sign on which the message can be changed electronically may be used as the changeable copy sign, provided that such sign shall be programmed so that it will not change the message more often than one time per minute. Changeable copy signs shall be prohibited from scrolling, rolling, fading, flashing, or otherwise transitioning text and graphics displayed upon the changeable copy sign area.
- (F) *Signs in the public rights-of-way.* The following permanent signs are allowed in the public rights-of-way:
- (1) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.
 - (2) Bus stop signs erected by a public transit company authorized to operate in the City.
 - (3) Informational signs of a public utility regarding its poles, lines, pipes or other facilities.
 - (4) Other signs appurtenant to a use of public property permitted under a franchise or lease agreement with the City.
 - (5) Within the boundaries of an approved Planned Development zoning district (PD-R, PD-TND, PD-EC, PD-COMM, or PUD), one (1) directional sign shall be permitted at each ingress/egress to the Planned Development zoning district. Such signs shall be subject to all other applicable regulations for freestanding signs, as provided in Section 6.5.4, unless otherwise regulated by a Planned Development Agreement or a master sign plan approved pursuant to Section 3.6.3(A)(5), Section 3.6.3(B)(5)(c), Section 3.6.3(C)(5), or Section 3.6.3(D)(5) of these LDRs. Signs permitted in accordance with this section shall not be considered off-site signs.
- (G) *Welcome signs.* Signs identifying entry into the corporate limits of the City which are located on public property, in easements granted to the City, or in the public rights-of-way shall not exceed 150 square feet and shall be subject to the provisions of Section 6.5.4(D).

6.5.5 *Temporary signs allowed.* The following temporary signs are allowed:

(A) *In residential and agricultural districts.* The following temporary signs shall be allowed in residential and agricultural districts, subject to the standards set forth in this subsection:

- (1) *Generally.* Temporary signs shall be allowed on property in the residential and agricultural districts, subject to the following limitations:
- (a) Such signs may be installed only by the property owner or occupant or with such person's permission.
 - (b) On lands of less than five acres, such a sign shall not exceed 7½ square feet in area. On lands of five acres or more, such a sign shall not exceed 32 square feet.
 - (c) Such sign shall not exceed six feet in height.
 - (d) There shall be no more than two temporary signs bearing a limited commercial message on a single lot or tract at any time, where the message is limited to a commercial message offering the property on which it is located for sale, rent, or lease, or advertising a garage or yard sale, which may be lawfully held on the lot or parcel on which it is located. No other commercial message is allowed.
 - (e) There shall be no limit on the number of temporary signs not bearing commercial messages on a lot or tract.

(2) *Period of posting.*

- (a) If a temporary sign relates to an election or other specific event, it shall be removed within ten days after the occurrence of the event.
- (b) A sign offering the premises for sale, rent, or lease shall be posted only during such time as the premises is actually available for sale, rent, or lease; such a sign shall be removed within five days of the execution of a lease or rental agreement, closing of sale, or actual occupancy of the property by a new owner or tenant, whichever shall first occur. A sign advertising a lawful garage or yard sale may be posted not more than 24 hours before the beginning of the sale and shall be removed within two hours of the conclusion of the sale.

(3) *Accessory signs for new developments.* As an accessory sign to the temporary business of real estate development in accordance with these LDRs, temporary signs advertising the sale of lots or dwellings in these districts shall be allowed in accordance with the following standards:

- (a) One such sign shall be allowed for the development for which subdivision plats have been approved and in which less than 80 percent of the available lots, dwellings or dwelling units have been sold;
- (b) Each such sign may be up to 32 square feet in size;
- (c) Such sign shall not be separately illuminated; or may be illuminated only by external, direct, white light which does not cause spillover or glare exceeding 0.50 footcandles at the property line; and
- (d) Such sign shall be removed on the earlier of the following:
 - (i) Three years after the approval of the sign permit for such sign; or
 - (ii) Upon transfer of title of 80 percent or more of the available lots, dwellings, or dwelling units included in the approved plat.

(4)

Notice and other official signs. Temporary signs required to provide notice or for other purposes under Federal or State law or local ordinance or by order of a court of competent jurisdiction shall be allowed. Such signs shall be removed at the end of the period of required posting. The size limitations applicable to other temporary signs in these districts shall not apply to signs posted to conform to statutory requirements or judicial orders, where the clear language of the statute or the order requires that such sign be larger or taller than would otherwise be permitted under this subsection.

(B) *In business districts.* The following temporary signs shall be allowed for each lot or parcel in a business district, subject to the standards set forth in this subsection:

- (1) *Generally.* One general temporary sign shall be allowed for each lot or parcel in a business district, subject to the following limitations:
 - (a) Such signs may be installed only by the property owner or occupant or with such person's permission.
 - (b) Such sign shall not exceed 32 square feet in area.
 - (c) Such sign shall not exceed six feet in height.
 - (d) Such sign may be used for the purpose of advertising the property, or a portion thereof, for sale, rent or lease, or for any noncommercial message.
 - (e) If such sign relates to an election or other specific event, it shall be removed within ten days after the occurrence of the event. If the sign relates to the sale, rent, or lease of property, it shall be removed within five days of the execution of a lease or rental agreement, closing of a sale, or actual occupancy of the property by a new owner or tenant, whichever shall first occur.
- (2) *Period of construction or development.* During the time that a property is under development or construction, one temporary detached sign that conforms in size, height, and location with the standards of Subsection 6.5.5(B)(1) of this section shall be allowed. Such temporary sign shall be removed upon the earlier of the following: 60 days after issuance of a certificate of occupancy for the premises, or installation of the permanent sign.
- (3) *Notice and other official signs.* Temporary signs required to provide notice or for other purposes under Federal or State law or local ordinance or by order of a court of competent jurisdiction shall be allowed. Such signs shall be removed at the end of the period of required posting. The size limitations applicable to other temporary signs in these districts shall not apply to signs posted to conform to statutory requirements or judicial orders, where the clear language of the statute or the order requires that such sign be larger or taller than would otherwise be permitted under this subsection.
- (4) *Sandwich board signs.* Sandwich board signs shall be permitted in the Central Business District and in any commercial sections of planned developments where the approved plan specifically allows such signs or incorporates by reference the standards applicable to signs in the Central Business District, subject to the following standards:
 - (a) There shall be no more than one such sign per business establishment;
 - (b) Such sign shall be located directly in front of such business establishment and within ten feet of the principal public entrance to such establishment;
 - (c) Such sign may contain commercial messages related to goods and services offered at the business establishment or other noncommercial message;
 - (d) One side of the sign shall not exceed five square feet in area, and there shall not be more than two sides to such sign;

- (e) The sign shall be taken inside the establishment when the business closes each night or at 9:00 p.m., whichever is earlier; and shall not be placed outside again until 7:00 a.m. or when the business opens each morning, whichever is later. Three or more violations of this provision during any 60-day period shall be grounds for the City to suspend or revoke the right of the violator to have a sandwich board sign; and
- (f) The sign shall not block any required exit from a building and shall not impair movement on the sidewalk by persons on foot, with walkers, in wheelchairs, or with strollers.

(C) *Banners.*

- (1) *On private property.*
 - (a) One temporary banner may be displayed on property no more than four times per year. The banner may be displayed for up to 14 days per occurrence, with a minimum of 45 days between each occurrence.
 - (b) The temporary banner shall not exceed 32 square feet in area or ten percent of the area of the wall to which the banner is fastened, whichever is smaller.
 - (c) The temporary banner shall be installed only on property, buildings, or structures owned or occupied by the permittee. The banner shall be firmly attached to a secure structure at all four corners.
 - (d) No temporary banner may be displayed without the issuance of a sign permit that is based upon the guidelines providing specific criteria and that are not based upon the content of the banner.
- (2) *On public property or right-of-way.* Temporary banners shall not be permitted over public space or street rights-of-way, except that up to two temporary banners may be permitted for an event which has been issued a Special Event Permit by the City of Alachua. If the event is exempt from obtaining a Special Event Permit pursuant to Section 4.6.2, the LDR Administrator may permit up to two temporary banners to be placed over a public space or street right-of-way.
 - (a) If the right-of-way is under the jurisdiction of the Florida Department of Transportation the proposed banner shall meet the requirements of Chapter 14-43 of the Rules of Procedure of the department.
 - (b) If support of the banner or access to the location to erecting the banner requires entry onto or use of private property owned by a person other than the applicant, the applicant shall provide notarized written consent from each affected landowner.
 - (c) The temporary banner shall provide at least 20 feet of vertical clearance to the public space below, be constructed of less than eight-ounce canvas, or similar material, and be supported by not less than one-quarter-inch stranded cable sewn into its hem.

6.5.6 *Flags.*

- (A) *Generally.* All flagpoles shall be set back from each property boundary a distance equal to the height of the flagpole.
- (B) *Commercial messages.* Flags with commercial messages are permitted in the same locations and subject to the same restrictions as other signs with

commercial messages.

- (C) *Relationship to other limits.* The square footage of flags bearing a commercial message shall be counted against the maximum sign area allowed.
- (D) *Numerical limits.* There shall be no more than two flags on each pole. Three flagpoles shall be allowed on each lot, plus one additional flagpole for each 200 feet of frontage on a street above the minimum lot frontage required in the zoning district or 100 feet, whichever is less.

6.5.7 *Prohibited signs.* It is unlawful for any person to erect, place, or use within the City:

- (A) Flashing signs, except for warning signs erected or placed temporarily by officials of the State of Florida, Alachua County or the City of Alachua, when the design and operation of such warning signs conforms to standards of the current Manual of Uniform Traffic Control Devices. Changeable copy signs meeting the standards of Section 6.5.4(E) shall not be considered flashing signs; changeable copy signs which change more frequently than allowed by that section, whether by scrolling, rolling, fading, flashing, or other means, shall be considered flashing signs and are subject to this prohibition.
- (B) Revolving signs.
- (C) Signs on public property, except signs erected by a public authority for a public purpose. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be deemed illegal and shall be forfeited to the public and subject to confiscation. In addition to the other remedies herein, the City shall have the right to recover from the owner or person placing such sign the cost of removal and disposal of such sign.
- (D) Roof signs.
- (E) Signs more than 16 feet in height, except as otherwise provided for in these LDRs.
- (F) Separate lighting for allowed temporary and permanent signs in residential districts, except that this prohibition shall not apply to allowed signs for institutional uses and residential neighborhood identification signs in residential districts.
- (G) Signs that result in glare or reflection of light on residences in the surrounding area.
- (H) Canopy, marquee, projecting, or hanging signs with less than an eight-foot clearance between the bottom of the sign and the ground surface.
- (I) Portable signs, except sandwich board signs allowed in accordance with Subsection 6.5.5(B)(4) of this section.
- (J) Signs legible from a public right-of-way containing more than 15 items of information on each sign face. An item of information is a word, an initial, a logo, an abbreviation, a number, a symbol or a geometric shape. This prohibition shall not apply to signs posted to conform to statutory requirements or judicial orders, where clear language of the statute or the order requires that such sign contain more than 15 items of information.
- (K) Off-site signs, except as otherwise provided for within these LDRs in Section 6.5.4(C)(2) and Section 6.5.4(G). Wayfinding signage erected by a governmental entity and located within or along a right-of-way shall not be considered an off-site sign.
- (L) Snipe signs, which consist of signs other than temporary signs and banners permitted pursuant to Section 6.5.5 which are tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, stakes, fences, or to other objects.
- (M)

Vehicle/trailer signs with a total sign area on any vehicle in excess of ten square feet, when the vehicle is parked in such a manner as to be visible from a street for more than two consecutive hours, excluding vehicles used for daily transportation, deliveries, or parked in a designated off-street parking space while business is being conducted on-site.

6.5.8 *Substitution of message.* Any sign allowed under this section or a predecessor ordinance, by sign permit, by conditional use permit, or by variance, or may contain, in lieu of any other message or copy, any lawful message that does not direct attention to a business operated for profit, or to a product, commodity, or service for sale or lease, or to any other commercial interest or activity, so long as said sign complies with the size, height, area, and other requirements of this section and these LDRs.

6.5.9 *Design, construction and maintenance.*

- (A) All signs shall comply with the applicable provisions of the Florida Building Code and the electrical code of the City of Alachua at all times.
- (B) Except for permitted temporary banners, flags, and temporary signs conforming in all respects with the requirements of this section, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- (C) All permanent signs requiring a sign permit from the City shall have a permanent weatherproof identification plate affixed to the exterior of the sign structure such that it may be readily seen after the sign is installed and shall indicate the following:
 - (1) The name of the manufacturer;
 - (2) The name of the installer;
 - (3) The date of installation;
 - (4) The sign permit number; and
 - (5) The electric permit number with the input volt amperes at full load for electric.
- (D) *Maintenance.* All signs and flagpoles shall be maintained in a good structural condition, in compliance with the Florida Building Code, and in conformance with this section, at all times. Specifically:
 - (1) A sign shall have no more than 20 percent of its surface area covered with disfigured, cracked, ripped, or peeling paint, poster paper, or other material for a period of more than 30 successive days.
 - (2) A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than 15 degrees from vertical for a period of no more than 30 successive days.
 - (3) Any sign which becomes or has become at least 50 percent destroyed shall be deemed a public nuisance and shall be removed by the owner of the sign or the owner of the premises upon which the same is situated.
 - (4)

A sign shall not have weeds, trees, vines, or other vegetation growing upon it, or obscuring the view of the sign from the street or right-of-way from which it is to be viewed, for a period of more than 30 successive days.

- (5) An internally illuminated sign shall not be allowed to stand with only partial illumination for a period of more than 30 successive days.
 - (6) The area around a lighted sign shall be maintained so that there are no weeds within a radius of ten feet of the sign, and no rubbish or debris shall be permitted so near to the sign that it creates a fire hazard.
- (E) *Location; utilities and ingress/egress.*
- (1) No sign shall be installed or erected so as to cover the doors or windows of the building, be constructed in such a manner as to obstruct a fire escape or an access thereto or be attached to a fire escape, exterior stair or other means of egress. No sign shall be attached to a standpipe, gutter, or drain, nor shall any sign be installed so as to impair access to a roof.
 - (2) Signs shall maintain a minimum six feet horizontal clearance and 12 feet vertical clearance from electrical equipment and lines and from all communications equipment or lines located within the City.
 - (3) Signs and their supporting structures shall maintain clearance and non interference with all surface and underground facilities and conduits for water, sewage, electricity, or communication equipment or lines. Furthermore, placement shall not interfere with natural or manmade drainage or surface or underground water.

6.5.10 *Nonconforming signs.* It is the policy of the City of Alachua to encourage and, to the maximum extent practicable, require that all signs within the City be brought into compliance with the requirements of these LDRs. Regulations related to nonconforming signs are found in [Article 8](#), Nonconformities.

6.5.11 *Violations, enforcement and remedies.* Violations and enforcement of this section are to be conducted according to the regulations found in [Article 9](#), Enforcement and Remedies. Each sign installed, created, erected, altered, or maintained in violation of these LDRs shall be considered a separate violation when applying the penalty portions of these LDRs.

6.5.12 *Severability.* If any portion of this section and Articles 8 and 9 related to this section, is found to be unconstitutional, beyond the power of the City of Alachua or otherwise not valid or ineffective, it is the intent of the City Commission that the remainder of this section, [Article 8](#) and [Article 9](#) should remain in effect unless and until amended by action of the City Commission in accordance with State law. It is further the intent of the City Commission that, if this section, [Article 8](#) or [Article 9](#) in its entirety should be held to be unconstitutional or otherwise not valid or ineffective, the remainder of these LDRs should remain in effect.

(Ord. No. 14-08, § 3(Exh. A), 9-8-2014; Ord. No. 18-01, § 3(Exh. A), 10-23-2017)

State Law reference— Provisions to regulate signage required, F.S. § 163.3202(2)(f).

Sec. 6.6. - Infill standards.

6.6.1 *Purpose.* The standards of this section are intended to ensure development in existing developed areas of the City is consistent with the established character and scale of those areas, and to protect existing residential uses and established residential neighborhoods from the potentially adverse impacts arising from the development of nonresidential uses in close proximity to residences. Accordingly, these standards are designed to address the transition between nonresidential and residential zone districts and uses, where these occur in close proximity, and to impose conditions on the development of nonresidential uses that reflects a proper balance between the needs of residents with the reasonable development and use of nonresidential sites.

6.6.2 *Contextual design standards.*

(A) *Applicability.*

(1) *Generally.* These standards shall be applicable to all proposed single-family and two-family residential development areas in the RSF-3, RSF-4, RSF-6, and RMH-5 districts where at least 75 percent of the lots on the block have already been developed with residential structures, and to properties containing nonresidential uses that are located adjacent to such single-family and two-family residential units or areas.

(2) *Time of compliance.* A plan shall be submitted with an application for a site plan (Section 2.4.9), or building permit, whichever occurs first, for any development that is required to comply with the standards of this section, demonstrating how the development proposes to comply.

(B) *Contextual setbacks.* Notwithstanding the minimum front setback requirements in Article 5, Density, Intensity and Dimensional Standards, a contextual front setback shall be used. A contextual front setback may fall at any point between the required front setback and the front setback that exists on a lot that is adjacent and oriented to the same street as the subject lot. If the subject lot is a corner lot, the contextual setback may fall at any point between the required front setback and the front setback that exists on the lot that is adjacent and oriented to the same street as the subject lot. If lots on either side of the subject lot are vacant, the setback that exists on such vacant lots shall be interpreted as the minimum required front setback that applies to the vacant lot. This provision shall not be interpreted as requiring a greater front setback than imposed by the base zone district.

(C) *Contextual height.* Notwithstanding the maximum height limits in Article 5, Density, Intensity and Dimensional Standards, a contextual height limit shall be used. The allowed contextual height may fall at any point between the maximum height limit and the height of a building that exists on a lot that is adjacent to the subject lot. If the subject lot is a corner lot, the contextual height may fall at any point between the maximum height limit and the building height that exists on the lot that is adjacent to the subject lot. If lots on either side of the subject lot are vacant, the height that "exists" on such vacant lots shall be interpreted as the maximum height limit that applies to the vacant lot. This provision shall not be interpreted as requiring lower maximum heights than imposed by the base zone district.

(D) *Contextual building width.* The width of the primary public street elevation of the primary dwelling shall not exceed the width of the widest residential structure of the same type (i.e., single-family detached, duplex, townhouse or multifamily) located on the same block face by more than 25 percent.

6.6.3 *Residential protection standards.*

(A)

General conditions. As a condition of the approval of any nonresidential development located within 500 feet of any residential district or adjacent to an existing residential single-family or two-family development, conditions may be imposed to reduce or minimize any potential adverse impacts on the residential land or development. Such conditions may include but are not limited to the following:

- (1) *Hours of operation and deliveries.* Hours of operation and deliveries.
 - (2) *Activities that generate potential adverse impacts.* Location on a site of activities that generate potential adverse impacts on adjacent uses such as noise and glare.
 - (3) *Placement of trash receptacles.* Placement of trash receptacles.
 - (4) *Loading and delivery area.* Location of loading and delivery areas.
 - (5) *Lighting.* Lighting location, intensity, and hours of illumination.
 - (6) *Placement of outdoor machines and activities.* Placement and illumination of outdoor vending machines, telephones, or similar outdoor services and activities.
 - (7) *Additional landscaping and buffering to mitigate adverse impacts.* Additional landscaping and buffering to mitigate adverse impacts.
 - (8) *Height restrictions.* Height restrictions to preserve light and privacy and views of significant features from public property and rights-of-way.
 - (9) *Preservation of natural lighting and solar access.* Preservation of natural lighting and solar access.
 - (10) *Ventilation and control of odors and fumes.* Ventilation and control of odors and fumes.
 - (11) *Paving and parking areas.* Paving to control dust.
 - (12) *Placement or configuration of site design.* Placement or configuration of site design.
- (B) *Height and setbacks.* Any nonresidential structure located in any nonresidential district and within 100 feet of a property boundary of a residential district or adjacent to a single-family or two-family dwelling shall be set back from the boundary of the residential district property boundary or residential development a minimum distance equal to the height of the nonresidential structure.

(Ord. No. 09-29, § 3(6.6.2), 9-28-2009; Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

Sec. 6.7. - Open space standards.

6.7.1 *Purpose.* This section addresses the character and design of those portions of development that are not occupied by platted lots or streets and that are reserved for parks, trails, landscaping, and open space uses. The standards of this section apply regardless of whether or not the land involved will be dedicated to the City, and regardless of whether or not such open space will be open to the public or to other residents of the development.

6.7.2 *Applicability.*

(A) *Generally.* The provisions of this section shall apply to all development in the City, except agricultural uses.

(B) *Time of compliance.* A plan shall be submitted with an application for a site plan (Section 2.4.9), subdivision (Section 2.4.10), planned development (Section 2.4.3), or building permit, whichever occurs first, for any development that is required to set aside open space in accordance with the standards of this section, demonstrating how the development project proposes to comply.

6.7.3 General standards.

(A) *Amounts of open space required.* Development shall provide at least the minimum amounts of open space set-aside identified in the following Table 6.7-1, Open Space Set-Aside:

Table 6.7-1. Open Space Set-Aside

Type of Land Use	Minimum Percent of Gross Site Area Designated as Open Space
Residential [1]	10
Public and institutional	10
Business	10

[1] Conservation subdivisions (Section 7.9) shall set-aside at least 50 percent of the gross site area as open space

(B) *Calculations.* For purposes of complying with this section:

- (1) *Unique features.* Natural features (riparian areas, wetlands, native upland ecosystems, wildlife corridors, etc.), natural hazard areas (floodplains, karst areas, etc.), water features (drainage canals, ditches, lakes, natural ponds, etc.), and wildlife habitat areas for threatened and endangered species shall be counted towards the open space set-aside.
- (2) *Required landscaping and tree protection zones.* Areas occupied by required landscaping and tree protection zones shall be counted towards the open space set-aside.
- (3)

Active recreation areas. Land occupied by active recreational uses such as pools, playgrounds, tennis courts, jogging trails and clubhouses used primarily for recreational purposes, shall be counted towards the open space set-aside.

- (4) *Passive recreation areas.* Passive recreation areas shall be counted towards the open space set-aside.
- (5) *Stormwater management and similar systems.* Land occupied by stormwater management systems, including retention and detention ponds, sand filters, and other retention devices shall be counted toward the open space set-aside.
- (6) *Land within lot subject to easement.* Land within the boundary of a private lot, if it is subject to a conservation easement shall be counted towards the open space set-aside.
- (7) *Not counted as open space.* The following shall not be counted as open space set-aside:
 - (a) Private yards not subject to a conservation easement.
 - (b) Land located within the boundary of a private lot, unless subject to a conservation easement.
 - (c) Public or private streets or rights-of-way, including sidewalks.
 - (d) Parking areas and driveways.
 - (e) Designated outdoor storage areas.
- (8) *Accelerated credits for greenway and trail provision.* Land within greenways and land used for improved multi-purpose trails shall be credited towards the open space set-aside percentage requirement at an accelerated rate of 1.5 times the amount of land within the greenway or trail.

6.7.4 *Design standards.* Land set aside as open space shall comply with the following standards:

- (A) *Location.* Where relevant and appropriate, open space set-aside area should be readily accessible and usable by residents and users of the development. Where possible, a portion of the open space set-aside should provide focal points for the development.
- (B) *Configuration.* The lands should be configured to the maximum intended purposes of the open space.
- (C) *Prioritization of features for open space set-aside.* To the maximum extent practicable, open space set-asides should be located and organized to include, protect, or enhance as many of the following features as possible:
 - (1) *Natural features.* Natural features such as wetlands, riparian areas, mature trees (six-inch caliper or greater), native upland ecosystems and wildlife corridors.
 - (2) *Water features.* Water features such as drainages, canals, ditches, lakes, natural ponds and retention and detention ponds.
 - (3) *Natural hazard areas.* Natural or geologic hazard areas or soil conditions, such as karst areas, other potentially unstable soils or floodplains.
 - (4) *Habitat for endangered or threatened species.* Habitat for threatened or endangered species listed, or proposed for listing, by either the Federal or State government.
 - (5) *Multiple compatible open space uses.* Areas that accommodate multiple compatible open space uses rather than a single use.

6.7.5 *Allowable uses.* Open space set-aside areas shall not be disturbed, developed, or improved, with any structures or buildings, except for the following allowed limited purposes:

- (A) *Active recreation uses.* Facilities for active recreation, including but not limited to: pools, playgrounds, tennis courts and clubhouses used primarily for recreational purposes. (Equipment or structures for such uses shall be indicated on the site and development plan or subdivision plat.)
- (B) *Passive recreation uses.* Passive recreational and educational purposes, including but not limited to walking, jogging, biking, picnicking, fishing, preservation of natural areas and scenic resources, parks, environmental education and wildlife habitat protection.

6.7.6 *Protection and maintenance.*

- (A) *Dedicated to homeowners' or property owners' association.* Wherever possible, all open space set aside areas shall be owned jointly or in common by the owners of the development through a recognized homeowners' or property owners' association, which should be established in accordance with the following:
 - (1) *Review of document creating association.* The landowner shall submit documents for the creation of the homeowners' or property owners' association to the City for review and approval, including its bylaws, and all documents governing ownership, maintenance, and use restrictions for the open space set-aside, including a legal description of such areas.
 - (2) *Landowner responsibility.* The landowner shall agree that the association shall be established by the landowner or applicant and shall be operating (with financial subsidization by the owner or applicant, if necessary) before approval of the first record plat for the land.
 - (3) *Association membership.* Membership in the association shall be automatic (mandatory) for all purchasers of dwelling units, lots or other structures therein and their successors in title.
- (B) *Retained on private lots.* All required open space set-aside areas maintained on individual building lots shall be protected as open space through the use of an easement prohibiting future development of the open space. Such open space shall be clearly marked on the site and development plan or plats for subdivision.
- (C) *Dedicated.* In some cases, the landowner may propose that certain lands designated as open space set-aside areas, such as wetlands, floodplains or other natural areas be dedicated to a nonprofit organization, the City, or a similar entity, who shall be responsible for managing the open space. To ensure adequate management of the open space set-aside, such a dedication shall be reviewed and approved by the City Commission as part of the development review process.

(Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

Sec. 6.8. - Design standards for business uses.

6.8.1 *Applicability.*

- (A) *Use type.* Unless exempted pursuant to Subsection 6.8.1(B), the standards in Subsection 6.8.2 shall apply to all business use types, except for single tenant retail sales and services uses greater than or equal to 20,000 square feet, which shall be subject to the standards of Subsection 6.8.3.
- (B)

Exemptions. Use types within the industrial services, manufacturing and production, warehouse and freight movement, waste-related services, and wholesale sales use categories are exempt from the requirements of this Subsection 6.8.2(A), except when all or a portion of a building utilized for such use is within 500 feet of the right-of-way of US Highway 441.

(C) *Additions; expansions; renovations.*

- (1) If any expansion or alteration exceeds 50 percent of the structure's assessed value in any continuous five-year period, the standards as set forth in Subsection 6.8.2 shall apply to all business use types, unless exempt pursuant to Subsection 6.8.1(B).
 - (2) If any expansion or alteration exceeds 50 percent of the structure's assessed value in any continuous five-year period, the standards as set forth in Subsection 6.8.3 shall apply to any single tenant retail sales and services use that is greater than or equal to 20,000 square feet.
- (D) *Time of review.* Review of proposed development to ensure compliance with the standards of this section shall occur at time of site plan (Section 2.4.9), special exception (Section 2.4.4), planned development master plan (Section 2.4.3(D)), or site-specific amendments to Official Zoning Atlas (Section 2.4.2), as appropriate.

6.8.2 *Design standards for business uses.*

(A) *Façade and material design.*

- (1) *Generally.* All façades facing a street, lands containing existing residential uses, or vacant land classified as CSV, A, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8, or RMF-15, shall be subject to the standards set forth in Subsection 6.8.2(A)(2).
- (2) *Standards.*
 - (a) *Glazing.*
 - (i) Glazing of the front facade in the following amounts:
 - a. Twenty percent of the ground floor façade area when it faces a street or a publicly-accessible parking area which is a part of the development and consists of 15 percent or more of the development's minimum off-street parking requirement pursuant to Section 6.1.4(B);
 - b. Fifteen percent of the ground floor façade area when it faces any vacant land classified as CSV, A, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8 or RMF-15, or lands containing existing residential uses.
 - (ii) For the purposes of this section, the ground floor façade area of single-story buildings shall be calculated by measuring the applicable building wall between the finished grade and the underside of the roof of the facade. When a building wall includes a parapet, the ground floor façade area shall be calculated by measuring to the top of the parapet. For buildings with more than one story, the ground floor façade area shall be calculated by measuring the applicable building wall between the finished grade and the underside of the floor above the ground level floor.
 - (iii) Windows shall not use reflective or heavily tinted glass that obstructs views into the building.
 - (iv)

Spandrel glass may be used only when an architectural floorplan demonstrates that windows cannot be provided due to a limitation presented by the interior layout or functional purpose of such interior space.

(b) *Façade massing.*

- (i) *Offset required.* Front facades and street-facing facades shall incorporate wall offsets of at least two feet in depth (projections or recesses) a minimum of every 30 feet. Each required offset shall have a minimum width of ten feet.
- (ii) *Offset alternatives.* The following alternatives can be used in place of the required front façade offsets:
 - a. Façade color changes following the same dimensional standards as the offset requirements;
 - b. Pilasters having a minimum depth of one foot, a minimum width of one foot, and a minimum height of 80 percent of the façade's height; and/or
 - c. Roofline changes when coupled with correspondingly aligned façade material changes.

(c) *Material design.*

- (i) A minimum of 25 percent of the materials utilized for each side facade and the rear façade shall be the same as the materials utilized for the front or street-facing façade(s).

(d) *Prohibited materials.* The following materials shall be prohibited:

- (i) Metal siding in more than 50 percent of any façade when visible from a street, lands classified as CSV, A, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8 or RMF-15, or lands containing existing residential uses;
- (ii) Exposed smooth finished concrete block when visible from a street, lands classified as CSV, A, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8 or RMF-15, or lands containing existing residential uses; and,
- (iii) Exposed split face concrete block in more than 60 percent of any façade.

(3) *Screening of mechanical equipment.* Mechanical equipment shall be fully concealed from visibility from a street, lands classified as CSV, A, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8 or RMF-15, or lands containing existing residential uses.

(B) *Connections to sidewalk system.*

- (1) When a sidewalk system exists within a right-of-way which is contiguous to the development, a minimum of one pedestrian connection to the sidewalk system shall be provided. On-site pedestrian circulation patterns shall be configured to provide safe and convenient access from the off-site sidewalk system to the main entrance(s) of the building(s). Sidewalks shall be constructed in accordance with Subsection 7.3.2(B), Configuration.

(C) *Interconnectivity with adjacent business uses.*

- (1) All uses subject to this section shall provide interconnection with adjacent existing compatible developments through one or more of the following methods:
 - (a) Through extension of a public or private street from the new development to the adjacent existing development or adjacent lands; and/or
 - (b)

Through joint use of driveways and cross access agreements among adjoining properties to allow circulation between sites. Cross access between new development and existing development shall be configured to provide safe and convenient interconnectivity between the new development and all other existing development located along the cross-access corridor.

6.8.3 Design standards for single tenant retail sales and service uses greater than or equal to 20,000 square feet.

(A) *Facade and material design.*

- (1) *Generally.* All facades facing a street, lands containing existing residential uses, or vacant land classified as CSV, A, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8, or RMF-15, shall be subject to the standards set forth in Subsection 6.8.3(A)(2).

(2) *Standards.*

(a) *Glazing.*

- (i) Glazing of the front façade in the following amounts:

- a. Thirty percent of the ground floor facade area when it faces a street or a publicly-accessible parking area which is a part of the development and consists of 15 percent or more of the development's minimum off-street parking requirement pursuant to Section 6.1.4(B);
- b. Twenty percent of the ground floor facade area when it faces any vacant land classified as CSV, A, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8 or RMF-15, or lands containing existing residential uses.

- (ii) For the purposes of this section, the ground floor facade area of single-story buildings shall be calculated by measuring the applicable building wall between the finished grade and the underside of the roof of the facade. When a building wall includes a parapet, the ground floor façade area shall be calculated by measuring to the top of the parapet. For buildings with more than one story, the ground floor facade area shall be calculated by measuring the applicable building wall between the finished grade and the underside of the floor above the ground level floor.

- (iii) Windows shall not use reflective or heavily tinted glass that obstructs views into the building.

- (iv) Spandrel glass may be used only when an architectural floorplan demonstrates that windows cannot be provided due to a limitation presented by the interior layout or functional purpose of such interior space.

- (v) *Glazing alternatives.* The amount of glazing required pursuant to Subsection 6.8.3(A)(2)(a)(i)a. may be reduced to a minimum of 20 percent when the façade incorporates all of the following architectural elements:

- a. The use of natural brick, a natural brick product, natural stone, or a natural stone product in at least 20 percent of the façade; and
- b. Window shutters/plantation-style shutters or a canopy/portico in accordance with the following:
 - i. Window shutters or plantation-style shutters which span a minimum of ten percent of the length of the façade; or
 - ii. A canopy or portico which provides a covered pedestrian walkway adjacent to the façade which spans a minimum of 50 percent of the length of the facade; and

- c. Customer entrances which include no less than six of the design features provided in Subsection 6.8.3(C)(2)(d).
- d. The amount of glazing required pursuant to this subsection may be further reduced by up to five percent when the façade incorporates a corresponding increase in the percentage of natural brick, natural brick product, natural stone, or natural stone product in addition to the minimum amount required pursuant to Subsection 6.8.3(A)(2)(a)(v)a.

(b) *Facade massing.*

- (i) *Offset required.* Front facades 60 feet wide or wider shall incorporate wall offsets of at least two feet in depth (projections or recesses) a minimum of every 40 feet. Each required offset shall have a minimum width of 20 feet.
- (ii) *Offset alternatives.* The following alternatives can be used in place of the required front facade offsets:
 - a. Façade color changes following the same dimensional standards as the offset requirements;
 - b. Pilasters having a minimum depth of one foot, a minimum width of one foot, and a minimum height of 80 percent of the facade's height; and/or
 - c. Roofline changes when coupled with correspondingly aligned façade material changes.

(c) *Roofline changes.*

- (i) Roof line changes shall include changes in roof planes or changes in the top of a parapet wall, such as extending the top of pilasters above the top of the parapet wall.
- (ii) When roofline changes are included on a facade that incorporates wall offsets or material or color changes, roofline changes shall be vertically aligned with the corresponding wall offset or material or color changes.
- (d) *Colors.* Façade colors shall be low reflectance, subtle, neutral, and/or earth tone colors, while high-intensity colors, bright colors, metallic colors, or black or fluorescent colors are prohibited.
- (e) *Prohibited materials.* The following materials shall be prohibited:
 - (i) Metal siding and exposed smooth-finished concrete block, when visible from a street, existing single-family attached or detached dwellings, or vacant land classified as CSV, A, RSF-1, RSF-3, and RSF-4; and
 - (ii) Synthetic stucco (EIFS) within two feet of the grade level and within two feet of any exterior door jamb.
- (f) *Vinyl siding.* Vinyl siding shall be limited to 60 percent or less of any single facade, and all vinyl siding shall have a smooth surface with no visible grained pattern.

(B) *Roofs.*

- (1) *Roof planes.* Except for mansard roofs, cupolas and steeples, sloped roofs shall include two or more sloping roof planes with greater than or equal to one foot of vertical rise for every three feet of horizontal run, and less than or equal to one foot of vertical rise for every one foot of horizontal run.
- (2)

Flat roofs. When flat roofs are used, parapet walls with three-dimensional cornice treatments shall conceal them. The cornice shall include a perpendicular projection a minimum of eight inches from the parapet facade plane.

(3) *Roof penetrations and equipment.* All roof-based mechanical equipment, as well as vents, pipes, antennas, satellite dishes and other roof penetrations (with the exception of chimneys), shall be located on the rear elevations or screened with a parapet wall having a three-dimensional cornice treatment so as to have a minimal visual impact as seen from:

- (a) A street;
- (b) Vacant land classified as CSV, A, RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8 or RMF-15; and
- (c) Lands containing single-family detached, attached, townhouse or two- to four-family dwelling developments.

(C) *Customer entrances.*

(1) *Required entrances.* Each side of a building facing a street shall include at least one customer entrance, except that no large retail establishment shall be required to provide entrances on more than two sides of the structure which face streets.

(2) *Entrance design.* Buildings shall have clearly-defined, highly visible customer entrances that include no less than three of the following design features:

- (a) Canopies/porticos above the entrance;
- (b) Roof overhangs above the entrance;
- (c) Entry recesses/projections;
- (d) Arcades that are physically integrated with the entrance;
- (e) Raised corniced parapets above the entrance;
- (f) Gabled roof forms or arches above the entrance;
- (g) Outdoor plaza adjacent to the entrance having seating and a minimum depth of 20 feet;
- (h) Display windows that are directly adjacent to the entrance;
- (i) Architectural details, such as tile work and moldings, that are integrated into the building structure and design and are above and/or directly adjacent to the entrance; or
- (j) Integral planters or wing walls that incorporate landscaped areas or seating areas. A wing wall is a wall secondary in scale projecting from a primary wall and not having a roof.

(D) *Off-street parking.*

(1) *Location.* No more than 50 percent of the required off-street parking shall be located in front of the building's primary facade. For purposes of this subsection, "in front of" shall mean the area located between the primary facade of the building as measured by extending a line perpendicular from the outermost corners of the primary facade to the property line(s) that the primary facade faces. When a large-scale retail establishment adjoins other retail

space, the provisions of this section shall only apply to the portion of the building occupied by the large-scale retail establishment.

(2) *Screening.* In addition to the screening requirements as set forth in Section 6.2, Tree protection and landscaping standards, off-street parking areas serving a large-scale retail establishment shall be screened in accordance with the following:

- (a) In cases where a wall or fence is provided in lieu of a continuous opaque screen of shrub material, such fence or wall shall have a minimum height of 36 inches, and be constructed of stone, brick, stucco, wood or similar material designed to resemble such materials;
- (b) Any fence or wall shall be located at least four feet from the edge of the lot line; and
- (c) All required canopy and understory/ornamental trees shall be located between the fence or wall and the edge of the street right-of-way.

(E) *Pedestrian circulation.*

- (1) *Sidewalks required.* New large retail establishments shall provide sidewalks constructed in accordance with Subsection 7.3.2(B), Configuration, on all sides of the lot which abut a street.
- (2) *Pedestrian pathways.* The on-site pedestrian circulation system shall comply with the standards in Subsection 6.1.10(A), Required improvements, and Subsection 7.3.2(C), Connection.
- (3) *Connection to public sidewalk system.* In the case of corner lots, a connection shall be made to the sidewalk of both streets.
- (4) *Distinguished from driving surfaces.* All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low-maintenance surface materials such as pavers, bricks, or scored/stamped concrete or asphalt to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.

(F) *Interconnectivity with adjacent business uses.*

- (1) All uses subject to this section shall provide interconnection with adjacent existing compatible developments through one or more of the following methods:
 - (a) Through extension of a public or private street from the new development to the adjacent existing development or adjacent lands; and/or
 - (b) Through joint use of driveways and cross access agreements among adjoining properties to allow circulation between sites. Cross access between new development and existing development shall be configured to provide safe and convenient interconnectivity between the new development and all other existing development located along the cross-access corridor.

(Ord. No. 09-29, § 3(6.8.2, 6.8.3), 9-28-2009; Ord. No. 14-08, § 3(Exh. A), 9-8-2014; Ord. No. 18-08, § 3(Exh. A), 4-9-2018; Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

Sec. 6.9. - Environmental protection standards.

6.9.1 *Purpose.* The purpose of this section is to ensure development in the City is designed and arranged to protect environmentally sensitive areas on the site and in the vicinity of the site and to locate development, where possible, in areas that do not have environmental limitations. This section implements the policies contained in the Comprehensive Plan and is intended to promote, preserve, and enhance the important hydrologic, biological, ecological, aesthetic, recreational, and educational functions that waterways, drainage systems, wetlands, natural groundwater recharge areas, and groundwater provide.

6.9.2 *Applicability.* Unless otherwise specifically exempted elsewhere in this section, all development shall comply with the standards of this section at time of site plan (Section 2.4.9), subdivision (Section 2.4.10), or building permit, whichever occurs first.

6.9.3 *Stormwater management standards.*

- (A) *Purpose.* This subsection establishes design and performance standards for stormwater management systems. Its purpose is to ensure stormwater management systems are established that minimize flooding, minimize erosion and sedimentation, protect and enhance water resources, and where possible, preserve natural features.
- (B) *Compliance with applicable State and Water Management District regulations.* In addition to compliance with the standards of this subsection, development shall also comply with applicable State and Suwannee River Water Management District (SRWMD) regulations. In all cases, the strictest of the applicable standards shall apply.
- (C) *Exemptions.*
- (1) *Generally.* The following development is exempt from the standards of this Subsection 6.9.3:
- (a) The clearing of land that is to be used solely for agriculture, silviculture, floriculture or horticulture, provided no obstruction or impoundment of surface water will take place.
 - (b) The construction, maintenance and operation of self-contained agricultural drainage systems, provided adjacent properties will not be impacted and sound engineering practices are followed.
 - (c) The construction, alteration or maintenance of a private residence or agricultural building, provided the total impervious area is less than 10,000 square feet (i.e., house, barn, driveways), and provided further that the residence or agricultural building is not adjacent to an outstanding Florida water or adjacent to or drains into a surface water body, canal or stream, or empties into a sinkhole.
 - (d) The connection of a system to an existing permitted system, provided the existing system has been designed to accommodate the proposed system.
 - (e) The placement of culverts whose sole purpose is to convey sheet flow when an existing facility is being repaired or maintained, provided the culvert is not placed in a stream or wetland.
 - (f) Existing systems that are operated and maintained properly and pose no threat to public health and safety.
 - (g) Connections to existing surface water management systems that are owned, operated, and maintained by a public entity, provided under ordinance, the proposed connections comply with a surface water management plan compatible with the SRWMD's requirements.
 - (h) Any development within a subdivision if each of the following conditions have been met:
 - (i) Stormwater management provisions for the subdivision were previously approved and remain valid as part of a final plat or development plan; and
 - (ii) The development is conducted in accordance with the stormwater management provisions submitted with the construction plan.
 - (i)

Action taken under emergency conditions to prevent imminent harm or danger to persons, or to protect property from imminent fire, violent storms, hurricanes, or other hazards. A report of the emergency action shall be made to the City Commission and SRWMD as soon as practicable.

(2) *Development discharging into outstanding Florida waters.* Any development exempt as cited above, that is directly discharged into an outstanding Florida water shall include an additional level of treatment equal to the runoff of the first 1.5 inches of rainfall from the design storm consistent with Chapter 62-25.025(9), Florida Administrative Code, in effect upon adoption of the Comprehensive Plan, in order to meet the receiving water quality standards of Chapter 62-302, Florida Administrative Code. Stormwater discharge facilities shall be designed so as not to lower the receiving water quality below the minimum condition necessary to ensure the suitability of water for the designated use of its classification as established in Chapter 62-302, Florida Administrative Code, in effect upon adoption of the City's Comprehensive Plan.

(3) *Development draining into surface water, canal, stream or sinkhole.* In addition, steps to control erosion and sedimentation must be taken for all development, including exempt development as cited above, that is adjacent to or drains into a surface water, canal, or stream, or that empties into a sinkhole, by first allowing the runoff to enter a grassed swale or other conveyance designed to percolate 80 percent of the runoff from a three-year, one-hour design storm within 72 hours after a storm event.

(D) *Stormwater management standards.*

(1) *Generally.* Development shall be constructed and maintained so that post-development runoff rates and pollutant loads do not exceed predevelopment conditions. While development is underway and after it is completed, the characteristics of stormwater runoff shall approximate the rate, volume, quality, and timing of stormwater runoff that occurred under the site's natural unimproved or existing state, except that the first one-half inch of stormwater runoff shall be treated in an off line retention system or according to other best management practices as described in the SRWMD's Surface Water Management Permitting Manual, as amended. In addition no development shall be constructed or maintained so that:

- (a) Such development impedes the natural flow of water from higher adjacent properties across the development, which could cause substantial damage to such adjacent lands of higher elevation; and
- (b) Stormwater from the development is collected and channeled onto adjacent lands of lower elevation.

(2) *Natural drainage system.* To the extent practicable, all development shall conform to the natural contours of the land. In addition, natural and preexisting manmade drainageways shall remain undisturbed.

(3) *Lot boundaries.* To the extent practicable, lot boundaries shall be made to coincide with natural and preexisting manmade drainageways within subdivisions to avoid the creation of lots that can be built upon only by altering such drainageways.

(4) *Developments to drain properly.* Development shall be provided with a drainage system that is adequate to prevent the undue retention of stormwater on the development site. Stormwater shall not be regarded as unduly retained if the retention:

- (a) Results from a technique, practice or device, deliberately installed as part of a sedimentation or stormwater runoff control plan approved by the SRWMD; or

- (b) Is not substantially different in location or degree than that experienced by the development site in its predevelopment stage, unless such retention presents a danger to health or safety.
- (5) *Sedimentation and erosion control.* Final plat approval for subdivisions may not be given with respect to any development that would cause land disturbing activity, subject to the jurisdiction of the SRWMD, unless the district has certified to the City, either that:
 - (a) The proposed construction plans are approved for permitting by the SRWMD; or
 - (b) The SRWMD has examined the preliminary plat for the subdivision and it reasonably appears that permits for such subdivision improvements can be approved, upon submission of the subdivider of construction plans. However in this case, construction of the development may not begin until the SRWMD issues its permit.
- (6) *Water quality.*
 - (a) The proposed development will not violate the water quality standards as set forth in Chapter 62-3, Florida Administrative Code.
 - (b) Facilities that directly discharge into an Outstanding Florida Water shall include an additional level of treatment equal to the runoff of the first 1.5 inches of rainfall from the design storm consistent with Chapter 62-25.025(9), Florida Administrative Code, in effect upon adoption of the Comprehensive Plan, in order to meet the receiving water quality standards of Chapter 62-302, Florida Administrative Code, in effect upon adoption of the Comprehensive Plan. Stormwater discharge facilities shall be designed so as not to lower the receiving water quality below the minimum conditions necessary to ensure the suitability of water for the designated use of its classification as established in Chapter 62-302, Florida Administrative Code, in effect upon adoption of the Comprehensive Plan.
- (7) *Design standards.* To comply with the foregoing standards, the proposed stormwater management system shall conform to the following:
 - (a) Detention and retention systems shall be designed in conformance with the SRWMD's Surface Water Management Permitting Manual, as amended.
 - (b) Natural systems shall be used to accommodate stormwater, to the maximum extent practicable.
 - (c) The proposed stormwater management system shall be designed to accommodate the stormwater that both originates within the development and the stormwater that flows onto or across the development from adjacent lands.
 - (d) The proposed stormwater management system shall be designed to function properly for a minimum 20-year life.
 - (e) Design and construction of the proposed stormwater management system shall be certified as meeting the requirements of these LDRs and the SRWMD's Surface Water Permitting Manual, as amended, by a professional engineer, architect or landscape architect, registered in the State of Florida.
 - (f) No stormwater may be channeled or directed into a sanitary sewer.
 - (g) The proposed stormwater management system shall coordinate with and connect to the drainage systems or drainageways on surrounding properties or roads, whenever practicable.
 - (h)

Use of drainage swales rather than curb and gutter and storm sewers in subdivision is provided for in [Article 7](#), Subdivision Standards. Private roads and access ways within unsubdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner or if other sufficient reasons exist to require such construction.

- (i) Stormwater management systems shall be designed and constructed to provide retention of runoff volumes such that the peak discharge from the developed site shall not exceed the equivalent peak discharge from the natural or undeveloped site.
- (j) The City Commission may require any water retention areas to be fenced and screened by trees and/or shrubs.
- (k) In areas where high groundwater and other conditions exist, subsurface drainage facilities shall be installed. If a wearing surface (see [Article 7](#), Subdivision Standards) and subsurface drainage facilities are required, all subsurface drainage facilities shall be installed by the subdivider prior to the paving of the street.
- (l) All required improvements shall be installed to maintain natural watercourses.
- (m) Construction specifications for drainage swales, curbs and gutters are contained in [Article 7](#), Subdivision Standards.
- (n) The banks of detention and retention areas shall be sloped to accommodate plantings, and shall be planted with vegetation that will maintain the integrity of the bank.
- (o) Dredging, clearing of vegetation, deepening, widening, straightening, stabilizing or otherwise altering natural surface waters shall be minimized.
- (p) Natural surface water shall not be used as sediment traps during or after development.
- (q) For aesthetic reasons, the shorelines of detention and retention areas shall be curving rather than straight.
- (r) Water reuse and conservation shall, to the maximum extent practicable, be achieved by incorporating the stormwater management system into irrigation systems serving the development, if any.
- (s) Vegetated buffers of sufficient width to prevent erosion shall be retained or created along the shores, banks or edges of all natural or manmade surface waters.
- (t) In phased developments, the stormwater management system for each integrated stage of completion shall be capable of functioning independently as required by these LDRs.
- (u) All detention and retention basins, except natural water bodies used for this purpose, shall be accessible for maintenance from streets or public rights-of-way.

(E) *Dedication and maintenance of stormwater management systems.*

- (1) *Dedication.* If a stormwater management system, that complies with this Subsection 6.9.3, is proposed to function as an integral part of the City's Stormwater Management System, the facilities may be dedicated to the City in a form recommended by the City Attorney and approved by the City Commission.

(2) *Maintenance by an acceptable entity.* All stormwater management systems that are not dedicated to the City shall be operated and maintained by one of the following entities:

- (a) A local governmental unit including a school board, special district or other governmental unit.
- (b) A regional water management agency or an active water control district created pursuant to F.S. ch. 298 or drainage district created by special act, or special assessment district created pursuant to F.S. ch. 170.
- (c) A State or Federal agency.
- (d) An officially franchised, licensed or approved communication, water, sewer, electrical or other public utility.
- (e) The property owner or developer, if:
 - (i) Written proof is provided through either a letter or resolution, that a governmental entity as set forth in Subsections 6.9.3(E)(2)(a) through (c) of this section, will accept the operation and maintenance of the stormwater management and discharge facility at a time certain in the future.
 - (ii) A surety bond or other assurance of continued financial capacity to operate and maintain the system is submitted and approved by the City Commission. The developer shall maintain and repair all improvements that these stormwater management standards require the developer to construct. The developer shall post a maintenance bond to cover at least ten percent of the estimated costs of all required stormwater improvements for a period of not less than three years
- (f) For-profit or nonprofit corporations, including homeowners' associations, property owners' associations, condominium owners' associations or master associations, if:
 - (i) The owner or developer submits documents constituting legal capacity and a binding legal obligation between the entity and the City in which the entity affirmatively takes responsibility for the operation and maintenance of the stormwater management facility.
 - (ii) If an association is used, the association has sufficient powers reflected in its organizational or operational documents to:
 - a. Operate and maintain the stormwater management system, as permitted by the SRWMD;
 - b. Establish rules and regulations;
 - c. Assess members;
 - d. Contract for services; and
 - e. Exist perpetually, with the articles of incorporation, providing that if the association is dissolved, the stormwater management system will be maintained by an acceptable entity as described in this Subsection 6.9.3(E)(2).

(3) *Phased projects.*

- (a)

If a development project is to be constructed in phases and subsequent phases will use the same stormwater management systems as the initial phase or phases, the operation/maintenance entity shall have the ability to accept responsibility for the operation and maintenance of the stormwater management systems of future phases of the project.

- (b) In phased developments that have an integrated stormwater management system, but employ independent operation/maintenance entities for different phases, the operation/maintenance entities, either separately or collectively, shall have the responsibility and authority to operate and maintain the stormwater management system for the entire project. That authority shall include cross easements for stormwater management and the authority and ability of each entity to enter and maintain all facilities, should any entity fail to maintain a portion of the stormwater management system within the project.
- (4) *Applicant as responsible entity.* The applicant shall be an acceptable entity and shall be responsible for the operation and maintenance of the stormwater management system from the time construction begins until the stormwater management system is dedicated to and accepted by another acceptable entity.

6.9.4 *Floodprone area standards.*

- (A) *General.*
 - (1) *Title.* This subsection shall be known as the Floodprone Area Standards of the City of Alachua, hereinafter referred to as "these regulations," "this subsection," or "Section 6.9.4."
 - (2) *Scope.* The provisions of this subsection 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, as amended; 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. Section 6.9.4(J)(1) and Section 6.9.4 (K)(4) shall apply to areas outside of the flood hazard area established in Section 6.9.4(B)(3).
 - (3) *Purpose.* The purposes of this subsection and the flood load and flood resistant construction requirements of the Florida Building Code, as amended, 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:
 - (a) Minimize unnecessary disruption of commerce, access and public service during times of flooding;
 - (b) Require the use of appropriate construction practices in order to prevent or minimize future flood damage;
 - (c) 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;
 - (d)

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;

- (e) Minimize damage to public and private facilities and utilities;
 - (f) Help maintain a stable tax base by providing for the sound use and development of flood hazard areas;
 - (g) Minimize the need for future expenditure of public funds for flood control projects and response to and recovery from flood events;
 - (h) 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;
 - (i) Protect the hydraulic characteristics of the small watercourses, including gulches, sloughs and artificial water channels used for conveying floodwaters; and
 - (j) Protect individuals from purchasing flood prone lands for purposes that are not suitable.
- (4) *Coordination with the Florida Building Code.* This subsection is intended to be administered and enforced in conjunction with the Florida Building Code, as amended. Where cited, ASCE 24 refers to the edition of the standard that is referenced by the Florida Building Code, as amended.
- (5) *Warning.* The degree of flood protection required by this subsection and the Florida Building Code, as amended by the City and from time-to-time, 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 subsection 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 ("FEMA"), requiring the City 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 subsection.
- (6) *Disclaimer of Liability.* This subsection shall not create liability on the part of the City Commission of the City of Alachua or by any officer or employee thereof for any flood damage that results from reliance on or compliance with this subsection or any administrative decision lawfully made thereunder.

(B) *Applicability.*

- (1) *General.* Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.
- (2) *Areas to which this subsection applies.* This subsection shall apply to all flood hazard areas within the City of Alachua, as established in Section 6.9.4(B)(3).
- (3) *Basis for establishing flood hazard areas.* The Flood Insurance Study for Alachua County, Florida and Incorporated Areas dated June 16, 2006, 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 subsection and shall serve as the minimum basis for establishing flood hazard areas. Studies and maps that establish flood hazard areas are on file in the Planning and Community Development Department.

(4)

Submission of additional data to establish flood hazard areas. To establish flood hazard areas and base flood elevations, pursuant to Section 6.9.4(E) 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 City indicates that ground elevations:

- (a) 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 subsection and, as applicable, the requirements of the Florida Building Code, as amended.
 - (b) Are above the closest applicable base flood elevation, the area shall be regulated as special flood hazard area unless the owner or owner's authorized agent (the "applicant") obtains a letter of map change that removes the area from the special flood hazard area.
- (5) *Other laws.* The provisions of this subsection shall not be deemed to nullify any provisions of local, state or federal law.
- (6) *Abrogation and greater restrictions.* These regulations supersede any ordinances or regulations previously 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 these LDRs, zoning ordinances, stormwater management regulations, or the Florida Building Code, as amended. In the event of a conflict between the requirements of this subsection and any other ordinances, the more restrictive shall govern. These regulations shall not impair any deed restriction, covenant or easement, but any land that is subject to such interests shall also be governed by this subsection.
- (7) *Interpretation.* In the interpretation and application of this subsection, all provisions shall be:
- (a) Considered as minimum requirements;
 - (b) Liberally construed in favor of the governing body; and
 - (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(C) *Duties and powers of the floodplain administrator.*

- (1) *Designation.* The LDR Administrator is designated as the Floodplain Administrator. The Floodplain Administrator may delegate performance of certain duties to other employees.
- (2) *General.* The Floodplain Administrator is authorized and directed to administer and enforce the provisions of this subsection. The Floodplain Administrator shall have the authority to render interpretations of this subsection consistent with the intent and purpose of this subsection and may establish policies and procedures in order to clarify the application of its provisions. Such interpretations shall be made pursuant to Section 2.4.19, Interpretation by LDR Administrator. Such interpretations, policies, and procedures shall not have the effect of waiving requirements specifically provided in this subsection without the granting of a floodplain development variance pursuant to Section 6.9.4(G).
- (3) *Applications, permits, and approvals.* The Floodplain Administrator, in coordination with other pertinent offices of the City, shall:
 - (a) Review applications and plans to determine whether proposed new development will be located in flood hazard areas;
 - (b) Review applications for modification of any existing development in flood hazard areas for compliance with the requirements of this subsection;

- (c) 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;
 - (d) Provide available flood elevation and flood hazard information;
 - (e) Determine whether additional flood hazard data shall be obtained from other sources or shall be developed by an applicant;
 - (f) Review applications to determine whether proposed development will be reasonably safe from flooding;
 - (g) Issue floodplain development permits or approvals for development other than buildings and structures that are subject to the Florida Building Code, as amended, including buildings, structures and facilities exempt from the Florida Building Code, as amended, when compliance with this subsection is demonstrated, or disapprove the same in the event of noncompliance; and
 - (h) 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 subsection.
- (4) *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:
- (a) Estimate the market value of the building or structure using the building value less any miscellaneous improvements or accessory structures from the appraised value as assessed by the Alachua County Property Appraiser's office, plus 20 percent before the start of construction of the proposed work, 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;
 - (b) 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. Upon the request of the Floodplain Administrator, the applicant shall provide a detailed valuation of all labor and materials for the construction project and all costs necessary to evaluate the substantial improvement and substantial damage requirements;
 - (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
 - (d) 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, as amended, and this subsection is required.
- (5) *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, as amended, to determine whether such requests require the granting of a floodplain development variance pursuant to Section 6.9.4(G).

- (6) *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 subsection.
- (7) *Inspections.* The Floodplain Administrator shall make the required inspections as specified in Section 6.9.4(F) for development that is not subject to the Florida Building Code, as amended, including buildings, structures and facilities exempt from the Florida Building Code, as amended. The Floodplain Administrator shall inspect flood hazard areas to determine if development is undertaken without issuance of a permit.
- (8) *Other duties of the Floodplain Administrator.* The Floodplain Administrator shall have other duties, including but not limited to:
- (a) Establish, in coordination with the Building Official, procedures for administering and documenting determinations of substantial improvement and substantial damage made pursuant to Section 6.9.4(C)(4);
 - (b) 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 FEMA;
 - (c) Require applicants who submit hydrologic and hydraulic engineering analyses to support permit applications to submit to FEMA the data and information necessary to maintain the Flood Insurance Rate Maps if the analyses propose to change base flood elevations, flood hazard area boundaries, or floodway designations; such submissions shall be made within six months of such data becoming available;
 - (d) Review required design certifications and documentation of elevations specified by this subsection and the Florida Building Code, as amended, to determine that such certifications and documentations are complete; and
 - (e) Notify FEMA when the corporate boundaries of the City of Alachua are modified, stopped here.
- (9) *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 subsection and the flood resistant construction requirements of the Florida Building Code, as amended, including Flood Insurance Rate Maps; Letters of Map Change; records of issuance of permits or approval and denial of permits or approvals; 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, as amended, and this subsection; 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 from floodplain development requirements, including justification for issuance or denial; and records of enforcement actions taken pursuant to this subsection and the flood resistant construction requirements of the Florida Building Code, as amended. These records shall be available for public inspection in the Planning and Community Development Department.

(D) *Permits or approvals.*

- (1) *Permits or approvals required.* Any applicant who intends to undertake any development activity within the scope of this subsection, including buildings, structures and facilities exempt from the Florida Building Code, as amended, 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) or approval(s). No such permit or

approval shall be issued until compliance with the requirements of this subsection and all other applicable codes and regulations has been satisfied.

- (2) *Floodplain development permits or approvals.* Floodplain development permits or approvals shall be issued pursuant to this subsection for any development activities not subject to the requirements of the Florida Building Code, as amended, including buildings, structures and facilities exempt from the Florida Building Code, as amended. 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.
- (3) *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, as amended, and any further exemptions provided by law, which are subject to the requirements of this subsection:
 - (a) Railroads and ancillary facilities associated with the railroad;
 - (b) Nonresidential farm buildings on farms, as provided in Section 604.50, Florida Statutes;
 - (c) Temporary buildings or sheds used exclusively for construction purposes;
 - (d) Mobile or modular structures used as temporary offices;
 - (e) Those structures or facilities of electric utilities, as defined in F.S. § 366.02, which are directly involved in the generation, transmission, or distribution of electricity;
 - (f) 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;
 - (g) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete;
 - (h) Temporary housing provided by the Department of Corrections to any prisoner in the state correctional system; or
 - (i) Structures identified in F.S. § 553.73(10)(k), are not exempt from the Florida Building Code, as amended, if such structures are located in flood hazard areas established on Flood Insurance Rate Maps.
- (4) *Application for a permit or approval.* To obtain a floodplain development permit or approval the applicant shall first file an application in writing on a form furnished by the City. The information provided shall:
 - (a) Identify and describe the development to be covered by the permit or approval.
 - (b) 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.

- (c) Indicate the use and occupancy for which the proposed development is intended.
 - (d) Be accompanied by a site plan or construction documents as specified in Section 6.9.4(E).
 - (e) State the valuation of the proposed work.
 - (f) Be signed by the applicant.
 - (g) Give such other data and information as required by the Floodplain Administrator.
- (5) *Validity of permit or approval.* The issuance of a floodplain development permit or approval for development located in a flood hazard area pursuant to this subsection shall not be construed to be a permit for, or approval of, any violation of this subsection, the Florida Building Code, as amended, or any other ordinances or regulations of the City. The issuance of permits or approvals based on submitted applications, construction documents, and information shall not prevent the Floodplain Administrator from requiring the correction of errors and omissions.
- (6) *Expiration.* Approval for development located in a flood hazard area shall become invalid unless the work authorized by such permit or approval is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be submitted to the LDR Administrator in writing and good cause shall be demonstrated.
- (7) *Suspension or revocation.* The Floodplain Administrator is authorized to suspend or revoke a floodplain development permit or approval if the permit or approval was issued in error, on the basis of incorrect, inaccurate or incomplete information, or in violation of this subsection or any other ordinance, regulation or requirement of the City.
- (8) *Other permits or approvals required.* Floodplain development permits or approvals 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:
- (a) The Suwannee River Water Management District; F.S. § 373.036.
 - (b) Florida Department of Health for onsite sewage treatment and disposal systems; F.S. § 381.0065, and Chapter 64E-6, Florida Administrative Code.
 - (c) Florida Department of Environmental Protection for activities subject to the Joint Coastal Permit; F.S. § 161.055.
 - (d) 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.
 - (e) Federal permits and approvals.

(E) *Site plans and construction documents.*

- (1) *Information for development in flood hazard areas.* The site plan or construction documents for any development subject to the requirements of this subsection shall be drawn to scale and shall include, as applicable to the proposed development:
- (a) 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.

- (b) 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 6.9.4(E)(2)(b) or Section 6.9.4(E)(2)(c).
 - (c) Where the parcel on which the proposed development will take place will have more than 50 lots or is larger than five 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 6.9.4(E)(2)(a).
 - (d) Location of the proposed activity and proposed structures, and locations of existing buildings and structures.
 - (e) Location, extent, amount, and proposed final grades of any filling, grading, or excavation.
 - (f) 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.
 - (g) Existing and proposed alignment of any proposed alteration of a watercourse.
 - (h) The Floodplain Administrator is authorized to waive the submission of site plans, construction documents, and other data that are required by this subsection 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 subsection.
- (2) *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:
- (a) Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices.
 - (b) Obtain, review, and provide to applicants base flood elevation and floodway data available from a federal or state agency or other source, such as the U.S. Army Corps of Engineers or the Suwannee River Water Management District, or require the applicant to obtain and use base flood elevation and floodway data available from a federal or state agency or other source.
 - (c) 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:
 - i. Require the applicant to include base flood elevation data prepared in accordance with currently accepted engineering practices; or
 - ii. Specify that the base flood elevation is four 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 feet.
 - iii. 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.

(3)

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 submit the following analyses signed and sealed by a Florida licensed engineer at such time the site plan and construction documents are submitted to the City:

- (a) 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 6.9.4(E)(4) and shall submit the conditional letter of map revision, if issued by FEMA, with the site plan and construction documents.
 - (b) 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 foot at any point within the City. 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.
 - (c) 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 6.9.4(E)(4).
- (4) *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.

(F) *Inspections.*

- (1) *General.* Development for which a floodplain development permit or approval is required shall be subject to inspection.
 - (2) *Development other than buildings and structures.* The Floodplain Administrator shall inspect all development to determine compliance with the requirements of this subsection and the conditions of issued floodplain development permits or approvals.
 - (3) *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, as amended, to determine compliance with the requirements of this subsection and the conditions of issued floodplain development permits or approvals.
- (4)

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, as amended, or the owner's authorized agent, shall submit to the Floodplain Administrator:

- (a) 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
- (b) If the elevation used to determine the required elevation of the lowest floor was determined in accordance with Section 6.9.4(E)(2)(c)(ii), the documentation of height of the lowest floor above highest adjacent grade, prepared by the owner or the owner's authorized agent.
- (5) *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 6.9.4(F)(4).
- (6) *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 subsection and the conditions of the issued permit or approval. Upon placement of a manufactured home, certification of the elevation of the lowest floor shall be submitted to the Floodplain Administrator.

(G) *Floodplain development variances and appeals.*

- (1) *General.* The Board of Adjustment shall hear and decide on requests for appeals and requests for variances from the strict application of this subsection. Pursuant to F.S. § 553.73(5), the Board of Adjustment 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, as amended.
- (2) *Appeals.* The Board of Adjustment 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 subsection. Any person aggrieved by the decision may appeal such decision to the Circuit Court, as provided by Florida Statutes.
- (3) *Limitations on authority to grant floodplain development variances.* The Board of Adjustment shall base its decisions on floodplain development variances on technical justifications submitted by applicants, the considerations for issuance in Section 6.9.4(G)(7), the conditions of issuance set forth in Section 6.9.4(G)(8), and the comments and recommendations of the Floodplain Administrator and the Building Official. The Board of Adjustment has the right to attach such conditions as it deems necessary to further the purposes and objectives of this subsection.
- (4) *Restrictions in floodways.* A floodplain development 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 6.9.4(E)(3).
- (5) *Historic buildings.* A floodplain development variance may be granted 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, as amended, upon a determination that the proposed repair, improvement, or rehabilitation will not preclude the building's continued designation as a historic

building and the floodplain development 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 floodplain development 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, as amended.

- (6) *Functionally dependent uses.* A floodplain development variance may be granted for the construction or substantial improvement necessary for the conduct of a functionally dependent use, as defined in this subsection, provided the floodplain development variance meets the requirements of Section 6.9.4(G)(4), 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.
- (7) *Standards for issuance of floodplain development variances.* In reviewing requests for floodplain development variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, as amended, this subsection, and the following:
 - (a) The danger that materials and debris may be swept onto other lands resulting in further injury or damage;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners;
 - (d) The importance of the services provided by the proposed development to the City;
 - (e) The availability of alternate locations for the proposed development that are subject to lower risk of flooding or erosion;
 - (f) The compatibility of the proposed development with existing and anticipated development;
 - (g) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area;
 - (h) The safety of access to the property in times of flooding for ordinary and emergency vehicles;
 - (i) 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
 - (j) 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.
- (8) *Conditions for issuance of floodplain development variances.* Floodplain development variances shall be issued only upon all of the following conditions being met:
 - (a) Submission by the applicant, of a showing of good cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this subsection or the required elevation standards;
 - (b) Determination and finding by the Board of Adjustment that the standards for issuance of a floodplain development permit or approval provided in Section 6.9.4(G)(7) cannot be met, and that:

- i. Failure to grant the floodplain development 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;
 - ii. The granting of a floodplain development 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
 - iii. The floodplain development variance is the minimum necessary, considering the flood hazard, to afford relief;
- (c) Receipt of a signed statement by the applicant that the floodplain development variance, if granted, shall be recorded in the Office of the Clerk of the Court, and the recording fees incurred by the applicant, in such a manner that it appears in the chain of title of the affected parcel of land; and
- (d) If the request is for a floodplain development 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 floodplain development variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25.00 for \$100.00 of insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

(H) *Violations.*

- (1) *Violations.* Any development that is not within the scope of the Florida Building Code, as amended, but that is regulated by this subsection that is performed without an issued permit or approval, that is in conflict with an issued permit or approval, or that does not fully comply with this subsection, shall be deemed a violation of this subsection. 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 subsection or the Florida Building Code, as amended is presumed to be a violation until such time as that documentation is provided.
- (2) *Authority.* For development that is not within the scope of the Florida Building Code, as amended, but that is regulated by this subsection 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.
- (3) *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.
- (4) *Enforcement, remedies, and penalties.* Any violations of this subsection shall be subject to the enforcement, remedies, and penalties as set forth in Article 9 of these LDRs.
- (I) *Design and construction of buildings, structures and facilities exempt from the Florida Building Code.* Pursuant to Section 6.9.4(D)(3), buildings, structures, and facilities that are exempt from the Florida Building Code, as amended, 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, as amended, that are not walled and roofed buildings shall comply with the requirements of Section 6.9.4(O).

(J) *Subdivisions.*

- (1) *Minimum requirements.* Subdivision proposals, including proposals for manufactured home parks and subdivisions, shall be reviewed to determine that all of the following are met:
 - (a) No building or structure shall not be located in flood hazard areas where other alternatives for the location of such structures exist on the site;
 - (b) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 - (c) All public utilities and facilities such as sewer, gas, electric, communications, and water systems are located and constructed to minimize or eliminate flood damage;
 - (d) 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; and
 - (e) In any area outside of the flood hazard area where a perennial watercourse is present, no building or fill shall be located within a distance of the stream bank equal to five times the width of the watercourse at the top of the bank or 35 feet, whichever is greater.
- (2) *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:
 - (a) Delineation of flood hazard areas, floodway boundaries and flood zones, and design flood elevations, as appropriate, shall be shown on preliminary plats and final plats;
 - (b) Where the subdivision has more than 50 lots or is larger than five acres and base flood elevations are not included on the FIRM, the base flood elevations determined in accordance with Section 6.9.4(E)(2)(a);
 - (c) The elevation of proposed structures and pads;
 - (d) If the site is filled above the base flood elevation, the final pad elevation shall be certified by a Florida licensed professional surveyor;
 - (e) Compliance with the site improvement and utilities requirements of Section 6.9.4(K); and
 - (f) The following flood hazard warning is displayed on the plat: "FLOOD HAZARD WARNING: This property may be subject to flooding. You should contact the City LDR Administrator and obtain the latest information about flood elevations and restrictions before making plans for the use of this land."

(K) *Site improvements, utilities and limitations.*

- (1) *Minimum requirements.* All proposed new development shall be reviewed to determine that all of the following are met:
 - (a) No building or structure shall be located in flood hazard areas where other alternatives for the location of such structures exist on the site;
 - (b) Such proposals are consistent with the need to minimize flood damage and will be reasonably safe from flooding;
 - (c) 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

- (d) 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.
- (2) *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.
- (3) *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.
- (4) *Encroachment limitations.* In flood hazard areas without base flood elevations (approximate Zone A), no encroachments including fill material and structures shall be located within a distance of the stream bank equal to five times the width of the watercourse at the top of the bank or 35 feet for all perennial watercourses, whichever is greater. In any area outside of a flood hazard area (Zone B, C, or X) where a perennial water course is present, no building or fill shall be located within a distance of the bank equal to 35 feet.
- (5) *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 6.9.4(E)(3)(a) demonstrates that the proposed development or land disturbing activity will not result in any increase in the base flood elevation.
- (6) *Limitations on placement of fill.* Subject to the limitations of this subsection, 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, as amended.

(L) *Manufactured homes.*

- (1) *General.* All manufactured homes permitted in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this subsection.
- (2) *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, as amended, and this subsection. Foundations for manufactured homes subject to Section 6.9.4(L)(6) are permitted to be reinforced piers or other foundation elements of at least equivalent strength.
- (3) *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.

- (4) *Elevation.* Manufactured homes that are placed, replaced, or substantially improved shall comply with Section 6.9.4(L)(5) or Section 6.9.4(L)(6), as applicable.
- (5) *General elevation requirement.* Unless subject to the requirements of Section 6.9.4(L)(6), all manufactured homes that are placed, replaced, or substantially improved 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), as amended on sites located:
 - (a) In an expansion to an existing manufactured home park or subdivision; or
 - (b) In an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood.
- (6) *Elevation requirement for certain existing manufactured home parks and subdivisions.* Manufactured homes that are not subject to Section 6.9.4(L)(5), 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:
 - (a) Bottom of the frame of the manufactured home is at or above the elevation required in the Florida Building Code, Residential Section R322.2 (Zone A), as amended; or
 - (b) Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.
- (7) *Enclosures.* Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential Section R322.2, as amended, for such enclosed areas.
- (8) *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, as amended.

(M) *Recreational vehicles and park trailers.*

- (1) *Temporary placement.* Recreational vehicles and park trailers placed temporarily in flood hazard areas shall:
 - (a) Be on the site for fewer than 180 consecutive days; or
 - (b) 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.
- (2) *Permanent placement.* Recreational vehicles and park trailers that do not meet the limitations in Section 6.9.4(M)(1) for temporary placement shall meet the requirements of Section 6.9.4(L) for manufactured homes.

(N) *Tanks.*

- (1) *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.
- (2)

Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 6.9.4(N)(3) shall be permitted in flood 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.

- (3) *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.
- (4) *Tank inlets and vents.* Tank inlets, fill openings, outlets and vents shall be:
 - (a) 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
 - (b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(O) *Other development.*

- (1) *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 subsection or the Florida Building Code, as amended, shall:
 - (a) Be located and constructed to minimize flood damage;
 - (b) Meet the limitations of Section 6.9.4(K)(5) if located in a regulated floodway;
 - (c) Be anchored to prevent flotation, collapse or lateral movement resulting from hydrostatic loads, including the effects of buoyancy, during conditions of the design flood;
 - (d) Be constructed of flood damage-resistant materials; and,
 - (e) 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.
- (2) *Residential accessory structures.* The anchoring requirements of Section 6.9.4(O)(1) may be satisfied by bolting the structure to a concrete slab or by over-the-top ties. When bolted to a concrete slab, one-half inch bolts shall be installed six feet on center, with a minimum of two bolts per side, with a force adequate to secure the structure.
- (3) *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 6.9.4(K)(5).
- (4) *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 6.9.4(K)(5).

- (5) *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 6.9.4(K)(5). Alteration of a watercourse that is part of a road or watercourse crossing shall meet the requirements of Section 6.9.4(E)(3)(c).

6.9.5 *Wetlands standards.*

- (A) *Purpose.* The purpose of this subsection is to promote, preserve and enhance the important hydrologic, biological, ecological, aesthetic, recreational and educational functions that wetlands and associated riparian areas provide to the City.
- (B) *Standards generally.* There shall be no development or dredging and filling activity that alters the natural function of wetlands, if a development alternative exists under these LDRs that allows the clustering of development to the nonwetland portion of a site. If no such alternative exists, development of the site may occur that only minimally impacts wetlands. Such development shall comply with the following standards:
- (1) *Residential development at one dwelling unit per five acres.* Residential development may occur at up to one unit per five acres, if:
- (a) Residences and any accessory structures are built on pilings of sufficient height to exceed by one foot the highest recorded flood level in the wetland. If there is no flood data available, residences and any accessory structures shall be built at least two feet above the highest seasonal water level.
 - (b) Clearing or removal of native vegetation shall not exceed one-half acre per five acres. If dwelling units are clustered, a density of one dwelling unit per five acres shall be maintained on site, and clearing or removal of native vegetation shall not exceed a total of one-quarter acre for each five-acre area. Exotic vegetation may be removed without regard to this limitation, provided that, if the area cleared of exotic vegetation exceeds the applicable one-half-acre or one-quarter-acre limitation, it is replanted with native wetland vegetation.
 - (c) No dredging or filling (except for pilings to support the residence and accessory structures or poles providing utility services) shall be allowed, except that a walking path or driveway to the residence may use permeable fill if it is designed with a sufficient number and size of culverts to allow the natural flow of water to continue.
 - (d) Drainfields for septic tanks and graywater are located outside the wetland.
 - (e) If dwelling units are clustered, a density of one dwelling unit per five acres shall be maintained on site and the following provisions shall also apply:
 - (i) Clustering of units shall be located in the perimeter areas of the wetlands; and
 - (ii) A restrictive or conservation easement to preserve open space is provided.
- (2) *Standards for residential development at one dwelling unit per three acres.* Residential development at up to one dwelling unit per three acres may occur if:
- (a) Residences are built on pilings of sufficient height to exceed by one foot the highest recorded flood level in the wetland. If there is no flood data available, residences must be built at least two feet above the highest seasonal water level.

- (b) All accessory structures and other support facilities are constructed outside the wetland.
- (c) Clearing or removal of vegetation does not exceed one-quarter acre per three acres. If dwelling units are clustered, a density of one dwelling unit per three acres shall be maintained on site, and clearing or removal of native vegetation shall not exceed a total of one-eighth acre for each three acre area. Exotic vegetation may be removed without regard to this limitation, provided that, if the area is cleared of exotic vegetation exceeds the applicable one-quarter-acre or one-eight-acre limitation, it is replanted with native wetland vegetation.
- (d) No driveways, paths or other construction requiring fill (other than pilings for the residence or poles for utilities) shall be allowed within the wetland.
- (e) All residences are connected to a centralized sewage system.
- (f) If dwelling units are clustered, a density of one dwelling unit per three acres may be maintained on site if:
 - (i) Clustering of units is located in the perimeter area of the wetlands; and
 - (ii) A restrictive or conservation easement to preserve the open space is provided.

State Law reference— Provisions to ensure the protection of environmentally sensitive lands designated in the Comprehensive Plan required, F.S. § 163.3202(2)(e).

6.9.6 *High natural groundwater aquifer recharge standards.*

- (A) *Purpose.* The purpose of this subsection is to provide standards to protect natural groundwater aquifer recharge areas that provide potable water to the City and other North Florida residents who depend on the Floridian Aquifer System for drinking water.
- (B) *High natural groundwater aquifer recharge areas designated.* For the purposes of these LDRs, these high natural groundwater aquifer recharge areas are identified in the SRWMD HARC Map.
- (C) *High natural groundwater aquifer recharge area standards.* Development within areas designated as high natural groundwater aquifer recharge areas shall comply with the following standards:
 - (1) *No drainage wells or sinkholes for stormwater management.* Stormwater management practices shall not include drainage wells and sinkholes for stormwater disposal where recharge is into potable water aquifers.
 - (2) *Development in areas with existing wells.* Where development is proposed in areas with existing wells, these wells shall be abandoned, including adequate sealing and plugging according to Chapter 62-28, Florida Administrative Code. The site and development plan shall clearly indicate that the proposed stormwater disposal methods meet requirements established in this subsection.
 - (3) *Well construction, modification and closure.* Well construction, modification, or closure shall be regulated in accordance with the criteria established by the SRWMD and the Florida Department of Health the Florida Department of Environmental Protection and such other agencies as may be legally designated to have such oversight authority from time to time.
 - (4) *Abandoned wells.* Abandoned wells shall be closed in accordance with the criteria established by Chapter 62-28, Florida Administrative Code.
 - (5)

No discharge of regulated material. No person shall discharge or cause to or permit the discharge of a regulated material to the soils, groundwater, or surface water of any high natural groundwater aquifer recharge area.

- (6) *Regulated material storage system.* No person shall tamper or bypass or cause or permit tampering with or bypassing of the containment of a regulated material storage system, within any high natural groundwater recharge area, except as is necessary for maintenance or testing of those components.
- (7) *Landfill and storage facilities.* Landfill and storage facilities for hazardous/toxic wastes shall also require approval as a special exception. (See Section 2.4.4, Special exception permit.)

State Law reference— Provisions to ensure the protection of environmentally sensitive lands designated in the Comprehensive Plan required, F.S. § 163.3202(2)(e).

6.9.7 *Portable water wellfield protection standards.*

- (A) *Wellfield protection zone established.* In order to protect wellfields, wellfield protection zones shall be established consistent with the Comprehensive Plan.
- (B) *Wellfield protection standards.* Within the wellfield protection zones, property owners shall comply with the following standards:
 - (1) *Regulated materials prohibited.* No development shall be permitted that requires or involves storage, use or manufacture of regulated materials.
 - (2) *Limitation on new wells.*
 - (a) No new wells shall be permitted in a surficial intermediate aquifer system or the aquifer system.
 - (b) Exemptions to this limitation on new wells may be approved by the City Commission (after recommendation by the Planning and Zoning Board) for:
 - (i) Wells constructed by the City, a community water association or their contractor as part of a monitoring system surrounding the wellfield.
 - (ii) New construction or repair of wellfield production wells or other well construction or modification required in the operations of a City or community water association water treatment plant.
 - (iii) Wells constructed as part of a FDEP approved contaminant assessment/remediation plan where groundwater contamination has been identified or is suspected.
 - (iv) Wells constructed for private water supply in locations where the cost of connection to a public water utility would exceed the cost of the proposed private supply well and pumping system by a factor of 2½ times.
 - (v) Geotechnical borings constructed in the surficial aquifer system.
 - (3) *Discharge prohibited.* No person shall discharge or cause to or permit the discharge of a regulated material to the soils, groundwater or surface water of any wellfield protection zone.
 - (4) *Landfills prohibited.* New sanitary landfills, as defined by Chapter 62, Florida Administrative Code, shall be prohibited within any wellfield protection zone.
 - (5) *Limitation of septic tanks.* New septic tank waste water treatment systems shall be prohibited within any wellfield protection zone, except where the cost of connection of a public waste water utility would exceed the cost of the proposed septic tank and installation by a factor of 2½ times or where no public

sanitary sewer system is available.

- (6) *Sanitary sewer plants prohibited.* New domestic and/or industrial wastewater treatment facilities shall be prohibited within any wellfield protection zone.
 - (7) *Transportation of regulated materials prohibited.* Transportation of regulated materials is prohibited within any wellfield protection zone except local traffic serving facilities within any wellfield protection zone.
 - (8) *Activities requiring storage prohibited.* Except as provided in Subsection 6.9.7(B)8(b) of this section, no activity that requires storage or use of agricultural chemicals, hazardous or toxic waste, petroleum products or toxic and medical waste shall be permitted within any wellfield protection zone.
 - (a) *Material exemptions.* The City Commission, after the request has been heard and a recommendation provided by the Planning and Zoning Board, may exempt any material from the requirements of this provision if it is demonstrated the material, in the quantity and/or solution handled or the conditions under which it is stored, does not present a significant, actual, or potential hazard to the contamination of groundwater in case of a discharge.
 - (b) *Temporary storage permit.* A temporary use permit (Section 2.4.12) shall be required for the temporary storage of regulated materials in containers or tanks exceeding 50 gallons aggregate volume for use in normal agricultural or forestry practices within any wellfield protection zone.
 - (9) *Additional activities prohibited.* Feed lots or other commercial animal facilities; percolation ponds; mines and excavation of waterways or drainage facilities that intersect the water table shall be prohibited within any wellfield protection zone.
- (C) *Notification upon sale or transfer.* Landowners with land located either partly or entirely within any wellfield protection zone shall, at the time of any transfer of interest in such land, create in any deed, lease, or other document conveying such interest a notation that the land is subject to the provisions for potable water wellfield protection of this subsection and these LDRs.

(Ord. No. 06-22, exh. A, 6-5-2006; Ord. No. 18-05, § 3(Exh. A), 2-12-2018; Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

State Law reference— Provisions to provide for protection of potable water wellfields required, F.S. § 163.3202(2)(c).

Sec. 6.10. - Improvement guarantees for private improvements.

6.10.1 *Development assurances or guarantees.*

- (A) *Generally.* The City shall require adequate financial assurance (performance guarantees), in a form and manner that it approves, for on-site private improvements such as off-street parking and loading, landscaping, exterior lighting, open space set-asides, and other relevant features shown on or described in a site plan (Section 2.4.9) subdivision (Section 2.4.10), planned development (Section 2.4.3), special exception permit (Section 2.4.4), special permit (Section 2.4.16), or building permits.
- (B) *Waiver of guarantee for public improvements.* In situations where the amount of improvements to be constructed is of a minimal nature, the LDR Administrator may waive the requirement for financial security if the completion of all improvements to be constructed is guaranteed by requirement of completion prior to issuance of any building permit or certificate of occupancy permit.

6.10.2

Form of performance guarantees. The owner or developer shall furnish a performance guarantee in any of the following acceptable forms:

- (A) *Cash deposit.* Cash deposit with the City of Alachua;
- (B) *Guarantee from a lender.* Guarantee from a Florida lender based upon a cash deposit, in a form acceptable to the City Attorney;
- (C) *Irrevocable letter of credit.* Irrevocable letter of credit from a Florida banking institution in a form acceptable to the City Attorney;
- (D) *Performance bond.* Performance bond from a Florida banking institution in a form acceptable to the City Attorney; or
- (E) *Other acceptable security.* Any other financial security found acceptable by the City Attorney.

6.10.3 *Performance guarantees for common and private on-site improvements.*

- (A) *Common improvements.* Common private improvements on parcels not maintained by the City shall be guaranteed at 120 percent of the materials and labor for all improvements prior to recording the plat for the subdivision, unless waived or reduced by the City.
- (B) *Improvements not installed prior to occupancy.* During certain seasons of the year, it may be impractical for some common and private improvements, such as off-street parking and loading, landscaping, or open space set-aside elements to be timely installed. When a certificate of occupancy permit is requested prior to the completion of such, the City may accept financial security for the completion of the improvements if it is in the best interest of the City to do so and when the following apply:
 - (1) *Improvements cannot be timely completed.* The LDR Administrator determines the subject improvements cannot be timely completed because of weather, season or other unavoidable circumstance;
 - (2) *No threat to health, safety, and welfare.* The site can function without the subject improvements, without creating a threat to health, safety, and welfare, and without detrimental impacts to surrounding lands and City service provision in the area;
 - (3) *Contracts executed and will be timely completed.* The owner/developer demonstrates that contracts have been executed for the work and such work shall be timely completed on or before a certain date; and
 - (4) *Financial security.* The owner/developer submits financial security in the amount of 120 percent of the estimated cost of labor and materials for the subject improvements to ensure such improvements are timely completed.

6.10.4 *Maintenance guarantees.* Unless otherwise provided for in these LDRs, either at the time of the City's acceptance of a performance guarantee for the private improvements or at the issuance of an occupancy permit, the City may require the owner or developer to furnish a maintenance guarantee in a form approved by the City, so as to guarantee the proper functioning and structural integrity of any private on-site improvement.

6.10.5 *Release of guarantees for common and private improvements.* Upon the owner or developer's completion of the improvements, the owner or developer shall provide written notice to the LDR Administrator requesting an inspection. Upon determination that the improvements fully comply with the approved site and development plan, plat for subdivision, planned development, special exception permit, special permit, or building permit, the full amount of financial security shall be released, less the City's costs of additional inspections and other means to secure compliance.

6.10.6 *Forfeiture of security.*

- (A) *Failure to install improvements.* If an owner or developer fails to properly install all required improvements within the time-frames established by these LDRs, the LDR Administrator shall give 30 days' written notice to the owner/developer (if different) by certified mail, after which time the City may draw on the security and use the funds to complete the required improvements.
- (B) *Report of expenditures.* After completing the required improvements, the City shall provide a complete accounting of the expenditures to the landowner or developer (as appropriate) and, as applicable, refund all unused security deposited, without interest, to the party posting the guarantee. If the costs to complete the required improvements are greater than the amount of the security, the City may assess the additional costs to the affected landowners or responsible association.

(Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

App. 6.2.2-A. - List of nuisance trees.

NUISANCE TREE LIST

Common Name	Botanical Name
Australian pine	Casuarinas spp
Black locust	Robinnia pseudoacacia
Brazilian pepper	Schinum spp
Chinaberry	Melia azedarach
Chinese tallow tree	Sapium sebiferum
Hackberry	Celtis occidentalis
Sugarberry	Celtis laevigata
Honeylocust	Gleditsia triancanthes
Melalenca	Melaleuca quinquenervia
Mulberry	Broussonetia spp
Wild cherry	Prunus serotina

(Ord. No. 19-05, § 3(Exh. A), 1-14-2019)

Article 7 - SUBDIVISION STANDARDS

Footnotes:

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State Law reference— Provisions to regulate the subdivision of land required, F.S. § 163.3202(2)(a).

Sec. 7.1. - Purpose and applicability.

7.1.1 *Purpose.* These subdivision standards are established:

- (A) *Economically sound community.* To encourage the development of an economically sound and stable community.
- (B) *Provision of streets, utilities, and other facilities.* To ensure the provision of required streets, utilities and other facilities and services for development.
- (C) *Safe and convenient access and circulation.* To ensure the adequate provision of safe and convenient access and circulation, both vehicular and pedestrian, and to help ensure that all lots will be accessible to firefighting equipment and other emergency and service vehicles.
- (D) *Provision of land for recreation, education, open space, and other public purposes.* To ensure the provision of land for recreation facilities, education facilities, open space and related public purposes.
- (E) *Protect and conserve natural and scenic resources.* To ensure the protection and conservation of natural and scenic resources.
- (F) *Safe and healthy environment.* To promote a safe and healthy environment.
- (G) *Identification of land on public records.* To ensure the adequate identification of land on the public records.
- (H) *Development consistent with the Comprehensive Plan.* To ensure the development of the community in ways that are consistent with the Comprehensive Plan.

7.1.2 *Applicability and other relevant provisions.*

- (A) *Generally.* All land required to be subdivided in accordance with Section 2.4.10, Subdivision, shall comply with the standards of this article.
- (B) *Additional requirements.* In addition to the standards for subdivision established in this article (Sections 7.2 to 7.8), all final plats for subdivision shall also comply with the following laws, rules, and regulations:
 - (1) *Land development regulations.* All relevant and appropriate provisions of these LDRs.
 - (2) *Other City laws.* All other relevant and appropriate City laws and regulations.
 - (3) *Building code.* The Florida Building Code, as amended.
 - (4) *Comprehensive Plan.* The Comprehensive Plan in effect at the time of submission.
 - (5) *All other relevant State and Federal laws and regulations.* Rules and regulations of the FDEP, FDOT, the Suwannee River Water Management District and other appropriate regional, State and Federal agencies and all other relevant Florida and Federal statutes and regulations.

Sec. 7.2. - Subdivision layout and design generally.

7.2.1 *Layout and design generally.* Where required by these LDRs, the subdivider shall grade and improve streets; install sidewalks, street name signs, streetlights, fire hydrants, curbs and gutters; place monuments and corner stakes and install sanitary sewer and water mains and stormwater facilities in accordance with the specifications of these LDRs and any other specifications established by ordinance or resolution of the City Commission. The City Commission may, if conditions warrant, coordinate with a owner/subdivider to construct public improvements that are capable of accommodating community or systemwide needs in accordance with the standards in Section 7.3.11(B), Oversizing and reimbursement.

7.2.2 *Residential and nonresidential subdivisions; use of subdivided lots.*

- (A) *Use of lots comply with LDRs and Comprehensive Plan.* The proposed use of lots within a subdivision shall comply with the requirements of Article 4, Use Regulations, these LDRs, and shall be consistent with the Comprehensive Plan.
- (B) *Site outside floodprone area if alternative available.* Where other alternatives are available for the siting of residential dwellings within a subdivision, they shall not be located in a floodprone area as required by Section 6.9.4, Floodprone area standards.

7.2.3 *Block standards.*

- (A) *Block width.* Blocks shall have sufficient width to provide for two tiers of lots of appropriate lengths. Exceptions to this prescribed block width shall be permitted in blocks adjacent to existing streets, railroads or waterways.
- (B) *Block length.*
 - (1) *Generally.* The lengths, widths, and shapes of blocks shall be consistent with the context in which the development is proposed, as well as the type of development contemplated.
 - (2) *Residential areas.* Block lengths in residential areas shall not exceed 600 feet, nor be less than 300 feet in length.
 - (3) *Easements through long blocks.* On blocks that are more than 400 feet in length, the City Commission may require the reservation of an easement through the block to accommodate utilities, stormwater management facilities and/or pedestrian traffic.
 - (4) *Pedestrian access through long blocks.* Pedestrian ways or crosswalks, not less than ten feet wide, may be required through the center of blocks more than 400 feet long, if it is determined they are essential to provide circulation or access to schools, playgrounds, parks other recreation facilities, retail areas, transportation facilities, or other community facilities.

7.2.4 *Lot standards.*

- (A) *Arrangement.*
 - (1) *Generally.* Lots shall be arranged in such a way to minimize difficulties due to natural, topographical, or other conditions, to development of the lot consistent with the standards of this article and these LDRs, and all other relevant State and Federal laws and regulations.
 - (2) *Access to street.* Except for lots located within a cottage neighborhood, all lots shall have sufficient frontage so there can be driveway access to primary structures placed on the lots from a public or private street.

(B) *Dimensions and design.*

- (1) *Generally.* Lot dimensions shall comply with the minimum standards established in the Article 5, Density, Intensity and Dimensional Standards.
 - (2) *Lot depth.* The depth of any lot within a subdivision shall not exceed three times the width of said lot within the subdivision.
 - (3) *Side lot lines.* In general, side lot lines shall be at right angles to street lines (or radial to curving street lines), unless it is demonstrated variation will provide a more efficient and environmentally sensitive street or lot design.
 - (4) *Entry of autos from lot to street.* The entrance of automobiles from the lot to the street shall be approximately at right angles or radial to street lines.
 - (5) *Corner lots.* Corner lots shall be designed in accordance with Section 5.2.2(A)(7)(c).
 - (6) *Drainage.* Lots shall be laid out to provide positive drainage away from all buildings. Individual lot drainage shall be coordinated with the general stormwater drainage pattern for the area in accordance with approved construction plans, and shall comply with the standards of Section 6.9.3, Stormwater management standards.
- (C) *Double frontage lots.* Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of single-family dwellings from existing streets or to overcome specific disadvantages of topography and orientation.
- (D) *Access.* Lots shall not access an existing street except in a minor subdivision.
- (E) *Lot corners.* The subdivision shall adhere to the requirements of F.S. ch. 177 regarding the placement of all lot corners.

7.2.5 *Streets.*

- (A) *Generally.* The arrangement, character, extent, width, grade, and location of all streets shall be consistent with the Comprehensive Plan, where applicable, and shall be considered in relation to existing and planned streets, topographical conditions, safety, public convenience, and the uses of land to be served by the streets.
- (B) *Topography.*
- (1) *Original topography.* Streets shall conform, to the maximum extent practicable, to the original topography of the land they traverse.
 - (2) *Locate building sites above grade of street.* Streets shall be designed and located, to the maximum extent practicable, so that as many building sites as possible are located at or above the grades of the streets.
 - (3) *Avoid combination of steep grades and curves.* Street design should avoid a combination of steep grades and curves that cause site distance problems.
- (C) *Arrangement.*
- (1) *Continuation of arterial and collector streets between subdivision and adjacent lands.* The arrangement of streets shall provide for the continuation of arterial and/or collector streets between the proposed subdivision and adjacent lands when such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities, and where such continuation is consistent with the Comprehensive Plan.
 - (2)

Layout of local streets. Local streets shall be laid out to utilize traffic calming techniques, permit efficient stormwater management and utility systems, and require the minimum number of streets necessary to provide convenient and safe access to the lots within the subdivision.

- (3) *Form.* A rectangular grid street pattern is encouraged, but not required, and the use of curvilinear streets, cul-de-sacs or U-shaped streets is encouraged where such configuration will result in a layout that is more efficient and reduces impacts on natural resources and features.
- (4) *Connectivity.* Streets shall be extended to the boundary lines of the tract to be subdivided and connected with adjacent streets, unless such a layout is prevented by topographical or other physical or environmental conditions, or unless it is demonstrated such extension is neither necessary nor desirable for the coordination of the layout or the most advantageous future development of adjacent tracts.
- (5) *Business and mixed use developments.* In business and mixed use developments, the streets, access ways, and pedestrian ways shall be designed and laid out in connection with the groupings of buildings, the parking and loading areas, pedestrian ways, and other loading and maneuvering areas, to ensure there is an efficient and safe on-site traffic circulation system that is coordinated with a system of pedestrian ways.
- (6) *Dedication.* Except for Subsection 7.2.5(F) of this section, Private streets, streets within a subdivision shall be dedicated to the perpetual use of the public.

(D) *Temporary street stub.*

- (1) *Generally.* If the land adjacent to the subdivision is undeveloped, a street extending to the boundary of the subdivision shall temporarily be established as a stub street (a street planned for future continuation), and shall be designed to comply with the following standards:
 - (a) Stub streets which are 250 feet or less shall have a temporary T- or L-shaped turnout.
 - (b) Stub streets which are greater than 250 feet shall have a temporary cul-de-sac turnout.
- (2) *Connection when adjacent property developed.*
 - (a) There shall be a notation on the final plat that land used for a temporary T- or L-shaped cul-de-sac or turnout shall be converted to a traffic circle, speed table, or other traffic calming device upon extension of the street to adjacent lands.
 - (b) The subdivider of the adjacent land connecting to the temporary T- or L-shaped cul-de-sac or turnout shall pay the cost of restoring the stub street to its original design cross section, installing an appropriate traffic calming device, and extending the street.
 - (c) The City Commission may limit the length of temporary stub streets, and shall require a turnout for public safety purposes approximately midway if such street exceeds 600 feet in length.

(E) *Access to existing streets.* Where a subdivision borders on or is traversed by an existing street, access shall be provided by one of the following ways:

- (1) *Lots backup to existing street.* If the lots of the subdivision back onto the existing street, no access shall be provided from the existing street to the lots and screening shall be provided on a strip of land along the rear property line of the lots in accordance with Subsection 6.2.3(E) of this section;
- (2) *Marginal access streets.* A marginal access street, if it is separated from the existing street by a grass strip that provides access to the existing street at points that ensure safe and adequate access from the subdivision lots; or

- (3) *Series of cul-de-sacs or U-shaped streets.* A series of cul-de-sacs, or U-shaped streets, entered from and designed generally at right angles to the existing street. Each proposed cul-de-sac or U-shaped street shall be located no less than 1,000 feet apart where such streets connect with the existing street, and shall be designed to ensure safe and adequate access.
- (F) *Private street.* The City Commission may approve a private street when adequate provision for initial installation, improvement, and future private maintenance of the private street is assured through a development agreement.
- (1) *Development agreement.* The development agreement to construct and maintain a private street or easement for private street use shall constitute a covenant by the City and the developer or owner of the subdivision, the terms and conditions of which shall run with the land and be binding upon all successors-in interest to the developer or owner.
 - (2) *Private streets shall be identified as private streets.* All private streets shall be clearly identified as private streets on the face of the final plat and the final plat shall provide for an appropriate easement based on street type for each private street.
- (G) *Dead-end streets prohibited.* Dead-end streets are not permitted in any subdivision. Stub streets (streets planned for future continuation) are not considered dead-end streets.
- (H) *Cul-de-sacs.* If cul-de-sac streets are used in a subdivision, they shall:
- (1) *Dimensions.* Be provided with a turnaround having an outside roadway diameter of at least 80 feet, and a street property line diameter of at least 100 feet.
 - (2) *Length.* The street length shall not exceed the length standards outlined in the following Table 7.2-1, including the turnaround, unless topographical or environmental conditions, such as the geometry of the land or the character of the adjacent land, make it impracticable to design the cul-de-sac streets according to these standards:

Table 7.2-1. Cul-de-Sac Street Length

Zone Districts	Street Length Standard (in feet)
A, and RSF-1, and PD-R with a minimum lot area of 40,000 square feet and a maximum gross density of 1 du/acre. [1]	1,500
RSF-3, and RSF-4, and PD-R with a minimum lot area of 7,500 square feet and a maximum gross density of 4 du/acre. [1]	1,000
All other districts	600

[1] The minimum lot areas and maximum gross density in the PD-R zone district shall be established by an adopted PD Master Plan and implementing ordinance.

(3) *Pedestrian connectivity.* Be connected to the adjacent public sidewalk, greenway, or other pedestrian network with a sidewalk meeting the standards of Section 7.3.2, Sidewalks, or an eight-foot-wide multipurpose trail, located within a public right-of-way or access easement granted to the City.

(I) *Street intersections.*

(1) *General layout.*

- (a) Streets shall be laid out to intersect as nearly as possible at right angles.
- (b) An intersection of two new streets at an angle of less than 75 degrees is prohibited.
- (c) Oblique streets should be curved approaching an intersection and should be approximately at right angles for at least 100 feet.
- (d) No more than two streets shall intersect at any one point unless it is demonstrated that no other alternative is reasonably available, and the applicant demonstrates the intersection design is safe.

(2) *Intersections along one side of existing street.* A new intersection along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with centerline offsets of less than 125 feet shall not be permitted. Where proposed streets intersect major streets, their alignment shall be continuous.

(3) *Curb radii.*

- (a) Curb radii at the intersection of two local streets shall be at least 20 feet.
- (b) Curb radii at an intersection involving a collector street shall be at least 25 feet.
- (c) Abrupt changes in alignment within a block shall have the corners cut off in accordance with standard engineering practice to permit safe vehicular movement.

(J) *Widening and realignment of existing roads.*

(1) *Road right-of-way.* Where a subdivision borders on an existing street or when the Comprehensive Plan or these LDRs, or other local, regional or State agency plans or programs, such as the local capital improvements plan or a plan of the Florida Department of Transportation, indicates plans for realignment or widening a street that would require use of some of the land in the subdivision for right-of-way, the City Commission may negotiate with the owner/subdivider to obtain the land, and provide just compensation for the land, necessary for such right-of-way as part of the approval process.

(2) *Right-of-way for frontage roads.* Right-of-way for frontage roads and streets shall be dedicated by the subdivider in accordance with the standards in this article.

(K) *Bicycle lanes.* Bicycle lanes, a minimum of four feet in width, shall be required along all arterial streets unless an alternative facility is determined by the LDR Administrator to provide the same or higher level of mobility.

7.2.6 *Visibility clearance.* Fences and walls and other visual barriers shall comply with the following sight distance standards. The LDR Administrator is authorized to vary these standards depending on site conditions if no adverse impacts are created on adjacent lands.

- (A) *Street/street intersection sight distance triangle.* No fence, wall, or other visual barrier over three feet in height above grade shall be erected, placed, planted, or allowed to grow that obstructs the view of pedestrians on the sidewalk or obstructs the traffic vision at intersections. The LDR Administrator shall determine safe and adequate street/intersection sight distance triangle requirements based on site conditions.

- (B) *Street/alley sight distance triangle.* No visual obstruction over three feet in height above grade shall be permitted within the 25 feet sight distance triangle created at the intersection of an alley and street. The triangle is measured from a point where the curbline and the centerline of the alley meet 25 feet along the alley centerline (A) (in graphic). The third side of the triangle (C) (in graphic) connects these two sides, creating the sight distance triangle.
- (C) *Garage entrance/alley sight distance triangle.* No visual obstruction over three feet in height above grade shall be permitted within the six-foot sight distance triangle created at the intersection of a garage entrance and alley.
- (D) *Driveway/street sight distance triangle.* No visual obstruction over three feet in height above grade shall be permitted within the ten feet sight distance triangle created at the intersection of a driveway and street. When no sidewalk exists, the sight triangle shall be determined by the Public Services Director.

(Ord. No. 09-29, § 3(7.2.5), 9-28-2009; Ord. No. 16-07, § 3, 7-25-2016; Ord. No. 22-01, § 3(Exh. A), 10-11-2021)

Sec. 7.3. - Required improvements.

7.3.1 *Streets.* Work performed involving road right-of-way clearing and grubbing, earthwork, stabilizing and construction of a base and surface course shall meet the minimum requirements of the American Association of State Highway and Transportation Official's (AASHTO), latest manual edition and amendments, where applicable, unless stated otherwise in this article. These specifications are intended to govern the equipment, materials, construction methods, and quality control of the work, unless otherwise provided. They are not intended to apply to the basis of payment provisions.

- (A) *Street type improvement schedule.* For the purposes of this section, the types of subdivisions shall be given the classifications (street type standards) set forth in this subsection. Each subdivision shall comply with the required improvement standards for which it is classified.

- (1) Street type/standard A for subdivisions with business, or public and institutional uses.
- (2) Street type/standard B for subdivisions with residential uses, where any lot is 20,000 square feet or less.
- (3) Street type/standard C for subdivisions with residential uses, where all lots are greater than 20,000 square feet.
- (4) Street type/standard D for subdivisions with residential uses, with private streets with a maximum of ten lots using ingress and egress.

Where the proposed subdivision includes an existing street, the existing street shall conform to the standards in this section. (This standard shall not apply to any abutting street which is not connected to the proposed subdivision's street system.)

- (B) *Standard street improvements.* The following standards apply to all street improvements:

- (1) *Wearing surface width and right-of-way width standards.*
 - (a) *Arterial streets.* For street types/standards A, B, C and D.
 - (i) Two 24-foot wearing surfaces with a 20-foot median.
 - (ii) The subdivider shall be required to install the second 24-foot wearing surface only in subdivisions where projected average daily traffic generated on the arterial by the subdivision exceeds 7,000 vehicles.

- (iii) Minimum right-of-way width of 100 feet for streets with curb and gutter, or 120 feet for streets with swale.
- (b) *Collector streets.* For street types/standards A, B, C and D.
 - (i) 24-foot wearing surface.
 - (ii) Minimum right-of-way width or easement of 60 feet for streets with curb and gutter, or 80 feet for streets with swales.
- (c) *Local streets.*
 - (i) For street types/standards A, B and C.
 - a. 24-foot wearing surface. The minimum street wearing surface width for local streets may be reduced by two feet on each side served by a sidewalk or multipurpose trail with a minimum width of eight feet.
 - b. Minimum right-of-way width or easement width of 50 feet for streets with curb and gutter, or 60 feet for streets with swale.
 - c. For street type/standard B that incorporate transitional swales the minimum right-of-way width shall be 50 feet plus an additional 20 feet (10 feet for each side of the roadway) of private easement width for each transitional swale facility.
 - (ii) For street type/standard D.
 - a. 24-foot wearing surface. The minimum street wearing surface width for local streets may be reduced by two feet on each side served by a sidewalk or multi-purpose trail with a minimum width of eight feet.
 - b. Minimum right-of-way width or easement width of 40 feet for streets with curb and gutter, or 60 feet for streets with swale.
- (d) *Marginal access streets.*
 - (i) For street types/standards A, B and C.
 - a. 20-foot minimum wearing surface.
 - b. Minimum right-of-way width or easement width of 40 feet for streets with curb and gutter, or 60 feet for streets with swales.
 - c. For street type/standard B that incorporate Transitional Swales the minimum right-of-way width shall be 40 feet plus an additional 20 feet (10 feet for each side of the roadway) of private easement width for each transitional swale facility.
 - (ii) For street type/standard D.
 - a. 20-foot minimum wearing surface.
 - b. Minimum right-of-way width or easement of 40 feet for streets with curb and gutter, or 60 feet for streets with swales.
- (e) *Alley, drive.* For street types/standards B and D.
 - (i) 12-foot minimum wearing surface.
 - (ii) Minimum right-of-way width or easement of 20 feet for streets with curb and cutter, or 30 feet for streets with swales.

(f) *Wearing surface and right-of-way width summary table.* These standards are summarized in the following Table 7.3-1, Wearing Surface standards, and Table 7.3-2, Minimum Right-of-Way Width Standards:

Table 7.3-1. Wearing Surface Standards

Classification	Street Type Standard	Minimum Wearing Surface Width (in feet) [1]	Number of Travel Lanes [2]
Arterial	All	2 × 24	4
Collector	All	24	2
Local	All	24	2
Marginal access	All	20	2
Alley, drive	B, D	1 × 12	1

[1] The minimum street wearing surface width for local streets may be reduced by two feet on each side served by a sidewalk or multipurpose trail with a minimum width of eight feet.

[2] Individual travel lanes for streets shall be 12 feet wide, except for marginal access streets, which shall be a minimum ten feet in width.

Table 7.3-2. Minimum Right-of-Way Width Standards

Classification	Street Type	Curb and Gutter Right-of-Way Minimum Width (ft.)	Transitional Swale Right-of-Way Minimum Width (private easement minimum width) (ft.)	Standard Swale Right-of-Way Minimum Width (ft.)
Arterial	All	100	N/A	120
Collector	All	60	N/A	80
Local	A, B, C	50	50 (20 total — 10 on each side of roadway)	60
Local	D	40	N/A	60
Marginal access	All	40	40 (20 total — 10 on each side of roadway)	60
Alley, drive	B, D	20	N/A	30

(2) *Curb and gutter.*

- (a) Curb and gutter shall be provided on type A and B streets, but is not required on type C and D streets.
- (b) For lots including and between 10,000 square feet and 20,000 square feet transitional swales may be provided as an alternative to providing curb and gutter for Type B streets that are designated local or marginal access.
 - (i) If transitional swales are utilized the subdivider shall provide data-analysis from a licensed stormwater engineer demonstrating that performance measures outlined in the definition of transitional swale will be met by the transitional swale system.
 - (ii) In all cases where transitional swales are provided swale facilities shall be located within a minimum ten-foot wide private easement on each side of any proposed roadway. Such easements and all associated swales, culverts, and other features of the transitional swale shall be privately maintained and will be the sole responsibility of the subdivider or any successive home owner's association. The transitional swale facility must be owned in its entirety by a single entity.

- (iii) In all cases where transitional swales are provided, an F-type, or similar style, curbing is required to line the outer edge of an associated paved roadway. Curb breaks allowing for spillway connections to the swale system are permitted. In no event shall the runoff from the spillway be directed over a sidewalk system.
- (c) If curb and gutter is not required, the subdivider shall comply with the right-of-way width requirements for streets with swales in accordance with Table 7-3.2, Minimum Right-of-Way Width Standards.

7.3.2 *Sidewalks.*

- (A) *Location.* Except for subdivisions (Section 2.4.10) located in the A zone district and subdivisions exceeding one dwelling unit per acre in the RSF-1 zone district, sidewalks meeting the standards of this subsection shall be located on both sides of all Type A, B, and C arterial and collector streets, and on at least one side of any other street.
- (B) *Configuration.* If sidewalks are required, they shall be concrete, installed by the subdivider, provide curb cuts for bicycles and handicapped access, and be at least five feet wide and four inches thick.
- (C) *Connection.* All multiple-family and nonresidential development shall provide at least one improved pedestrian connection between the on-site pedestrian circulation system and the adjacent public sidewalk or greenway network, with an additional connection required for each additional five acres of development area.

7.3.3 *Road and street signs.*

- (A) *Road and street signs.* Road and street signs are traffic control signs such as stop signs, speed limit signs, etc. For all subdivisions, all road and street signs shall be designed in number and location to meet the USDOT Manual for Uniform Traffic Control Device Standards and shall be shown on the preliminary plat. The subdivider shall install such road and street signage and shall maintain and repair such signage through the warranty period, until transfer to the homeowners' association. In lieu of installation of such signage, the posting of a surety device in accordance with Section 6.10, Improvement guarantees for private improvements, shall be filed, approved, and accepted by the City Commission.
- (B) *Street name signs.* Street name signs are signs within a subdivision that identify street names. Street name signs shall be placed, by the subdivider, at all intersections within or abutting the subdivision. The type and location of the street name signs shall be submitted as part of the preliminary plat and shall conform to the Alachua County's street naming and addressing system.

7.3.4 *Streetlights.* Installation of streetlights is required on all public streets. Streetlights shall be installed by the subdivider in accordance with the standards in the City's Electrical Service Policy Manual.

7.3.5 *Reserve strips.* The creation of reserve strips shall not be permitted adjacent to a proposed public street in such a manner as to deny access to such street from property adjacent to the proposed subdivision, or to landlock adjacent properties.

7.3.6 *Stormwater management and flood protection requirements.* Subdivider shall comply with all stormwater management requirements set forth in Section 6.9.3, Stormwater management standards.

7.3.7 Sanitary sewer.

- (A) *Sanitary sewer available and reasonably accessible.* Where a publicly owned sanitary sewer system is available and reasonably accessible, the subdivider shall provide sanitary sewer services to each lot within the subdivision. All sewer lines serving lots within the subdivision shall be designed to operate on a gravity flow basis wherever possible. If a wearing surface and sanitary sewer lines are required, all sewer lines shall be installed by the subdivider prior to the paving of the street.
- (B) *Publicly owned sanitary sewer unavailable.* Where lots cannot be served by the extension of an existing publicly-owned sanitary sewer, an alternate method of sewage disposal for each lot may be used if it complies with all applicable standards of the Alachua County Health Department, the Florida Department of Health, the Florida Department of Environmental Protection and any other regional, State or Federal agency, as applicable. Alternative methods of sewage disposal shall be designed and installed as to enable subsequent connections to a publicly owned sanitary sewer system as service becomes available.
- (C) *Complies with requirements of Alachua County Health Department.* The subdivider shall furnish written proof demonstrating compliance with the provisions for sanitary sewage disposal for the entire subdivision prior to approval of a preliminary plat and construction plans for the subdivision.

7.3.8 Water supply.

- (A) *Publicly owned water supply available.* Where a publicly owned water supply is available and within a reasonable distance, the subdivider shall provide a system of water mains and shall connect the system to such supply. If a wearing surface and water mains are required, all water lines shall be installed by the subdivider prior to the paving of the street.
- (B) *Publicly owned water supply unavailable.* Where no publicly owned water supply is available within a reasonable distance, an alternate supply may be used if it is in compliance with all applicable standards of the Alachua County Health Department, the Florida Department of Health, the Suwannee River Water Management District and the Florida Department of Environmental Protection.
- (C) *Complies with requirements of Alachua County Health Department.* In cases where the development is not connected to a publicly owned water supply, the subdivider shall furnish written proof demonstrating compliance with the provisions for water supply for the entire subdivision prior to approval of a preliminary plat and construction plans for the subdivision.

7.3.9 Fire protection improvements.

Fire protection improvements shall be provided when the subdivision is connected to a publicly owned water system and shall include the installation of fire hydrants to water mains with a minimum pipe size of six inches in diameter. If fire protection improvements are required, then:

- (A) *Fire hydrants.* Fire hydrants shall be located no more than 1,000 feet apart and within 500 feet of each lot;
- (B) *Residual pressures.* The distribution system shall be capable of delivering, in addition to domestic requirements, residual pressures of not less than 20 pounds per square inch and fire flows of at least 500 gallons per minute; and
- (C) *Complies with ISO standards.* The distribution system shall be designed to comply with the ISO standards for the development.

7.3.10 Water and sanitary sewer systems.

New potable water and sanitary sewer systems, where required by the Comprehensive Plan, shall be designed by a Florida registered engineer in accordance with all applicable regulations of the Florida Department of Environmental Protection.

7.3.11 Utilities.

(A) Location of utility easements.

(1) Generally.

- (a) Utilities shall be located within the street right-of-way, as shown in the Technical Standards Manual.
- (b) Normally, the City will not permit utility easements across lots or centered on rear or side lot lines, except where, due to topography or other circumstances beyond the control of the subdivider, such utility easements are determined necessary for the reasonable development of the property. If approved, they shall be at least 15 feet wide and centered as near as practical between the lots.

(B) Oversizing and reimbursement.

- (1) *Oversized improvements.* Wherever a development contains public improvements that are required by the City to be larger than that necessary to serve the development where they are located, the owner/developer shall negotiate with the appropriate City departments to determine the proportional shared costs for the required improvements. Negotiated costs will be in accordance with existing City policy in place at the time of installation.
- (2) *Reimbursements.* Reimbursements to the owner/developer on oversized public improvements shall be in accordance with existing City policy in place at the time of installation.

7.3.12 *Adequate off-site facilities and services.* Where the City concludes that a proposed subdivision will create impacts on surrounding streets, utilities, or other facilities that cannot be adequately offset through the construction of on-site facilities, the construction of off-site facilities sufficient to offset the anticipated impacts of the proposed development may be required in no event, however, shall a subdivider be required to provide off-site facilities for purposes of granting a general public benefit beyond offsetting the impacts of the proposed subdivision.

7.3.13 *Monumentation and control points.* The subdivider shall comply with the requirements of F.S. ch. 177 regarding the placement of all monuments.

(Ord. No. 19-25, § 2(Exh. A), 5-20-2019; Ord. No. 22-01, § 3(Exh. A), 10-11-2021)

Sec. 7.4. - Improvement guarantees for public improvements.

7.4.1 Posting of surety device for public improvements.

- (A) An infrastructure plan or a final plat shall not be approved by the City Commission until a surety device in accordance with the forms as provided in Section 6.10.2, Form of performance guarantees, has been posted.
- (B) The surety device for public infrastructure improvements shall cover at least 120 percent of the estimated cost of all required improvements including but not limited to streets, sidewalks, multiuse paths or trails, and other transportation infrastructure, stormwater management facilities, potable and reclaimed water facilities, wastewater facilities, electric facilities, natural gas lines, recreation, and other public improvements. The estimated cost for the installation of all public infrastructure improvements shall be provided by a professional engineer licensed to practice in the State of Florida, and shall include all costs associated with the required materials and installation, plus a minimum contingency of ten percent.

(C) The surety device shall be conditioned upon the faithful performance by the subdivider of all work required to complete all improvements and installations for the subdivision or phases thereof, in compliance with these LDRs, and the approved infrastructure plan, preliminary plat, construction plans, and final plat, as applicable. For subdivisions, all improvements shall be completed within a specified time as provided in the subdivider's agreement.

(D) The surety device shall be payable to, and for the indemnification of, the City Commission.

(Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

Sec. 7.5. - Recordation.

The final plat shall be prepared and recorded in a form acceptable to the City, in a way that complies with Florida law.

Sec. 7.6. - Dedication of land.

7.6.1 *Public right-of-way dedication.* A dedication to the public by the owners of the subdivision for all streets, drainage easements, and other rights-of-way needed to serve the subdivision however designated and shown on the plat for perpetual use for public purposes, including vehicular access rights shall be required. If the property is encumbered by a mortgage, the owner of the mortgage shall join in the dedication or in some other manner subordinate the mortgagee's interest to the dedication of public right-of-way.

7.6.2 *Public purpose sites dedication.* The City Commission may require the dedication of land for school sites, parks, playgrounds, or other public areas, as are attributable to the demand for such facilities created by the subdivision. The subdivider may be required to pay an in lieu fee in an amount equal to the fair market value of such sites, said fair market value to be estimated on the basis of platted land without improvements. In no event, however, shall a subdivider be required to provide land or payment in lieu for such facilities beyond offsetting the impacts of the proposed subdivision.

Sec. 7.7. - Property or homeowners' association.

7.7.1 *Declaration of covenants; self-imposed restrictions.* If the subdivider places restrictions on any of the land contained in the subdivision greater than those required by these LDRs, such restriction or reference shall be indicated on the final plat for the subdivision and through a declaration of covenants.

7.7.2 *Declaration contents.* The declaration of covenants shall include, but not be limited to the following:

(A) *Establishment of homeowners' association.* A requirement that the property or homeowners' association is established before the homes are sold.

(B) *Mandatory membership.* Membership in the association be mandatory for owner and any successive buyer.

(C) *Responsibility for liability insurance, local taxes, and maintenance.* Provisions establishing that the association or, if applicable, the developer shall be responsible for providing for local taxes (if any), and the continuing maintenance of common areas, recreational facilities, and all other community facilities, and disclosing that the City provides no liability insurance for any common areas or recreational facilities.

(D)

Payment of costs. Provisions establishing that the property or homeowners shall pay their pro rata share of the costs incurred by the association unless the covenants provide for a different means of assessment.

(E) *Assessments.* Provisions establishing that assessments levied by the association can become a lien on the property if allowed in the master deed establishing the property or homeowners' association.

7.7.3 *Proof of establishment of association.* With the submittal of the recorded plat, the applicant shall submit evidence that the property or homeowners' association has been legally established, typically in the form of articles of incorporation.

Sec. 7.8. - Maintenance.

7.8.1 *Subdivider responsible for maintenance.*

(A) *Generally.* The subdivider shall maintain and repair all improvements which this article and these LDRs require the subdivider to construct in the subdivision for a period of one year after the completion of the improvements, in accordance with the provisions of Section 2.4.10(G)(7), Inspection of public improvements, and Section 2.4.10(G)(8), Warranty period following passing inspection. Prior to the initiation of the warranty period, the subdivider shall post a maintenance bond to cover at least ten percent of the estimated costs of all required improvements for a period of one year. All defects which occur within one year after completion and acceptance of all required improvements shall be remedied and corrected at the subdivider's expense.

(B) *No City maintenance of improvements unless expressly accepted by City Commission.* Nothing in these LDRs shall be construed as meaning that the City Commission shall take over for maintenance any road, street, utilities, public parking or other public area, or stormwater management facilities related thereto, except those designed and built in accordance with the requirements of this article, these LDRs, and other City laws and ordinances, that are expressly accepted for maintenance by specific action of the City Commission.

(C) *Landscape maintenance.* The homeowners' association or entity responsible for common areas shall be responsible for the maintenance of all landscape areas to present a healthy, neat and orderly appearance at all times and to replace dead plant materials according to the standards set forth in Section 6.2.2, Landscaping standards.

(D) *Signs.* The homeowners' association or entity responsible for nonpublic (i.e., subdivision) signs shall be responsible for the maintenance of all signs approved in accordance with these LDRs.

(E) *Fences.* The homeowners' association or entity responsible for fencing shall be responsible for the maintenance of all fencing in common areas approved in accordance with these LDRs.

(Ord. No. 20-08, § 3(Exh. A), 7-27-2020)

Sec. 7.9. - Conservation subdivision.

7.9.1 *Purpose and intent.* The purpose and intent of this section is to provide landowners in the Agricultural (A) Zone District a development option that provides additional development flexibility to build on smaller lots when additional open space is provided, and the development is designed and located in a way that protects the natural and historic features on the site. This is done in order to:

- (A) *Conserve open land.* Conserve open land, including those areas containing unique and sensitive natural features such as floodplains, wetlands, soils subject to slumping and sinkholes, river and stream corridors and steep slopes;
- (B) *Retain and protect natural resources.* Retain and protect existing environmental, natural and cultural resources;
- (C) *Link open spaces.* Create a linked network of open spaces;
- (D) *Promote rural character.* Promote existing rural character within the Agricultural (A) Zone District; and
- (E) *Provide reasonable use of property.* Provide reasonable economic use of the property.

7.9.2 *Applicability.* This conservation subdivision option may be used as a development option for single-family residential development on lands in the Agricultural (A) Zone District.

7.9.3 *Procedure.* Development utilizing the conservation subdivision option shall be approved in accordance with the procedures and standards in Section 2.4.10(F), Minor subdivision, after approval of a conservation plan in accordance with this section.

(A) *Yield plan.* Prior to review of a minor subdivision for a conservation subdivision option, an applicant shall have a yield plan for the land reviewed and approved, or approved with conditions by the LDR Administrator in accordance with this section and the standards of Section 7.9.4, Conservation subdivision standards, and Subsection 7.9.5 of this section, Delineation of conservation areas and development areas within the conservation subdivision. Deviation from an approved yield plan without obtaining prior approval from the LDR Administrator shall void the development order for a minor subdivision.

(B) *Yield plan requirements.*

(1) *Step 1: Site analysis map.* The applicant shall prepare a site analysis map that provides information about existing site conditions and context, and that comprehensively analyzes existing conditions both on the land proposed for the development site and on land within 500 feet of the site, and submit the site analysis map to the LDR Administrator. It is the intent of this section that the information required to be presented in the site analysis map is produced primarily from existing sources, maps and data.

(2) *Step 2: Site inspection.* After receipt of the site analysis map, the LDR Administrator shall schedule a site inspection of the land with the applicant. The applicant or the applicant's representative shall attend the site inspection with the LDR Administrator. The purpose of this site visit is to:

- (a) Familiarize the LDR Administrator and City staff with the existing site conditions and natural and historic features of the site;
- (b) Identify potential site development issues; and
- (c)

Provide an opportunity to discuss site development concepts, including the general layout of conservation areas and potential locations for proposed structures, utilities, roads, and other development features. Comments made by the LDR Administrator or other City staff during the site inspection shall be interpreted as being only suggestive. No official decision on the conservation plan shall be made during the site inspection.

- (3) *Step 3: Conservation and development areas map.* Based on the site analysis map and the information obtained during the site inspection, the applicant shall prepare a conservation and development areas map that depicts proposed primary conservation areas, secondary conservation areas, and development areas, in accordance with Subsection 7.9.5 of this section, Delineation of conservation areas and development areas within conservation subdivision.
- (4) *Step 4: Yield plan.* Based on the site analysis map, the information obtained during the site inspection, and the conservation and development areas map, the applicant shall prepare and submit to the LDR Administrator a yield plan. The yield plan shall include the following:
 - (a) A site analysis map;
 - (b) A conservation and development areas map;
 - (c) A preliminary site improvements plan, showing proposed site development, including minor utilities, roads, other development features, and lot lines located in the proposed development areas.
- (C) *Review of yield plan.* The LDR Administrator shall review the application in accordance with the procedures and requirements of Section 2.2.13, Review by LDR Administrator. The yield plan shall comply with the standards of Subsection 7.9.4 of this section, Conservation subdivision standards, and Subsection 7.9.5 of this section, Delineation of conservation areas and development areas within the conservation subdivision.
- (D) *Review and approval of conservation subdivision.* Following review and approval or approval with conditions of the yield plan by the LDR Administrator, the application for minor subdivision shall be submitted and reviewed in accordance with Section 2.4.10(F), Minor subdivision.

7.9.4 *Conservation subdivision standards.* A conservation subdivision shall:

- (A) *Minimum project size.* [Be] at least eight acres in area;
- (B) *Required conservation area.* Set aside a minimum of 50 percent of the total acreage of the site as conservation area to be permanently maintained and protected;
- (C) *Maximum residential density.* Not exceed a gross density of 0.2 dwelling units per acre;
- (D) *Lot area.* Have no minimum individual lot size, but be subject to a maximum lot area of one acre per building lot;
- (E) *Setbacks.*
 - (1) *Front yard setbacks.* Provide a minimum front yard setback of 18 feet;
 - (2) *Side and rear yard setbacks.* Not be subject to side yard and rear yard setback standards; and
 - (3) *Setback from water.* Provide a minimum setback of 35 feet from any water body.

(F) *Exempt from other development standards.* Development utilizing the conservation subdivision option shall be exempt from the following standards:

- (1) Minimum off-street parking requirements (Table 6.1-1, Minimum Off-Street Parking Standards);
- (2) Retention of the existing tree canopy outside the primary and secondary conservation areas (Section 6.2.1);
- (3) Site landscaping (Section 6.2.2(D)(1));
- (4) The block standards in Section 7.2.3; and
- (5) The sidewalk standards in Section 7.3.2.

7.9.5 *Delineation of conservation areas and development areas within the conservation subdivision.* The conservation areas and development areas on the conservation and development areas map and within the conservation subdivision shall comply with the following standards:

(A) *Primary conservation areas.*

- (1) *Features to be preserved.* The following features shall be located and delineated on the conservation and development areas map, and shall be preserved in the following priority order as primary conservation areas:
 - (a) The 100-year floodplain;
 - (b) Wetlands under the jurisdiction of the Army Corps of Engineers of the State of Florida;
 - (c) Habitat utilized by endangered or threatened species;
 - (d) Soils subject to slumping and sinkholes;
 - (e) Areas subject to karst topography;
 - (f) Nonjurisdictional wetlands not under the jurisdiction of the Army Corps of Engineers of the State of Florida;
 - (g) River and stream corridors (including public water reservoirs); and
 - (h) Steep slopes (slopes greater than 25 percent).
- (2) *Amount to be preserved.* All areas occupied by features comprising a primary conservation area shall be set aside and reserved for conservation purposes in accordance with the following standards:
 - (a) *Primary conservation area is less than 50 percent of set-aside.* In cases where the geographic area occupied by all features comprising the primary conservation area is less than 50 percent of the site, then all lands comprising the primary conservation area shall be set aside.
 - (b) *Primary conservation area exceeds 50 percent of set-aside.*
 - (i) In the event the geographic area of all features identified and prioritized as the primary conservation area results in a primary conservation area exceeding the 50 percent set-aside requirement (for example, conservation of the preceding prioritized features constitute 47 percent of a site, and the next prioritized feature consists of five percent), the applicant may identify which portions of the feature exceeding the 50 percent set-aside will

be designated for conversion to development area. To the maximum extent practicable, priority for retention shall be given to the highest quality portion of the features to be conserved.

(ii) Development on lands made available for conversion to development area shall be in accordance with the standards in these LDRs.

(3) *Allowable uses.* Uses located within a primary conservation area shall be limited to:

- (a) Unpaved pedestrian trails and walkways;
- (b) Docks and other water-related features as allowed in these LDRs;
- (c) Above and below ground public utilities and associated easements, provided no feasible alternative exists; and
- (d) Street and/or driveway crossings provided such crossings do not violate these LDRs or other State or Federal laws.

(B) *Secondary conservation areas.*

(1) *Features to be preserved.* In addition to primary conservation areas, the conservation and development areas map shall also depict secondary conservation areas, which shall be preserved in the following priority order:

- (a) Historic, archeological and cultural resources;
- (b) Existing and mature woodland forests, natural fields and meadows (especially those greater than five acres);
- (c) Prime agricultural lands, including existing pastures (whether in use or otherwise);
- (d) Scenic corridors and views; and
- (e) Areas that could serve to extend existing greenways, trails, parks or recreation areas.

(2) *Locations to be preserved.* All areas occupied by features comprising a secondary conservation area shall be set aside and reserved as a part of the conservation area in accordance with the following standards:

- (a) *Primary conservation area occupies 50percent of site area.* In the event that the geographic area set aside as the primary conservation area is 50 percent or more of the total site area, no additional lands occupied by secondary conservation features shall be required to be included in the conservation area.
- (b) *Primary conservation area occupies less than 50percent of site area.* In the event the geographic area set aside as the primary conservation area is less than 50 percent of the total site area, then lands containing secondary conservation features shall be set aside as part of the conservation area in priority order based upon the following:
 - (i) *Connect primary resource areas.* To the maximum extent practicable, the geographic area containing secondary conservation features shall be set aside so as to connect and surround the primary resource area.
 - (ii)

Primary and secondary conservation areas do not equal 50 percent of site area. In the event the combined area occupied by the primary conservation area and geographic area occupied by all secondary resource conservation features does not equal the 50 percent set-aside requirement, then additional lands necessary to meet the 50 percent set-aside requirement for the conservation area shall be designated for set-aside. Such lands may be selected by the applicant in accordance with the standards in Section 6.7.4, Design standards, and shall be designated for inclusion within the conservation area.

(iii) *Primary and secondary conservation areas exceed 50 percent of site area.* In the event the area occupied by the primary conservation area and the geographic area of all features identified and prioritized as the secondary conservation area results in a combined conservation area exceeding the 50 percent set-aside requirement, the applicant may identify which portions of the secondary conservation features will be designated for conversion to development area. To the maximum extent practicable, priority for retention shall be given to the highest quality portion of the features to be conserved. In no instance shall any portion of the primary conservation area be designated for conversion to development area.

(3) *Allowable uses.* Uses located within a secondary conservation area shall be limited to:

- (a) All uses allowed in a primary conservation area;
- (b) All uses allowed in open space set-asides (See Section 6.7.5, Allowable uses);
- (c) Uses allowed in the agriculture, animal husbandry, and horticulture use classifications in Table 4.1-1, Table of Allowed Uses;
- (d) Individual or community water supply and septic systems;
- (e) Stormwater management systems, where no feasible alternative exists;
- (f) Required drainage or other utility easements;
- (g) Mitigation of development activities, including restoration of disturbed or degraded areas to enhance habitat and scenic value.

(C) *Ownership.* The conservation area shall be considered as an open space set-aside, and it shall comply with the ownership requirements in Section 6.7.6, Protection and maintenance.

(D) *Development areas.* After identifying the primary and secondary conservation areas, the development area shall be identified. It is the area within which development may occur, and shall include the area within the site where:

- (1) Any clearing or grading activities will take place;
- (2) Ingress and egress will be located;
- (3) Individual or community wells and septic systems may be located (if not located within the secondary conservation area); and
- (4) Where roads, utilities and other similar structures will be located.

Nothing in this section shall prevent a series of multiple and noncontiguous development areas from being established, provided the development standards in these LDRs are met.

Sec. 8.1. - Generally.

8.1.1 *Purpose and intent.*

- (A) *Generally.* Within the provisions established by these LDRs, there exist uses of land, structures, lots of record, towers and signs that were lawfully established before these LDRs were adopted or amended, which now do not conform to its terms and requirements. The purpose and intent of this article is to regulate and limit the continued existence of those uses, structures, lots of record, signs and towers which do not conform to the provisions of these LDRs or any amendments thereto.
- (B) *Permit nonconformities to continue until removed, but not encourage survival.* It is the intent of these LDRs to permit these nonconformities to continue until they are removed, but not to encourage their survival except under the limited circumstances established in this article. The provisions of this article are designed to curtail substantial investment in nonconformities to preserve the integrity of these LDRs.

8.1.2 *Authority to continue.* Existing nonconformities and nonconformities under actual construction as of February 27, 2006, are allowed to continue in accordance with the standards of this article.

8.1.3 *Determination of nonconformity status.*

- (A) *Generally.* In all cases, the burden of establishing that a nonconformity lawfully exists shall be on the owner of the land on which the purported nonconformity is located.
- (B) *Casual, temporary or illegal use does not establish nonconformity.* The casual, temporary, or illegal use of land or structures shall not be sufficient to establish the existence of a nonconformity, nor does it create rights to continue the nonconformity.

8.1.4 *Minor repairs and maintenance.* Minor repairs and normal maintenance that are required to keep nonconforming uses, structures, lots of record, signs and towers in a safe condition are permitted, provided the minor repair or maintenance does not extend, expand, or enlarge the nonconforming use, structure, lot of record, sign or tower. For the purposes of this section, the term "minor repair or normal maintenance" means:

- (A) *Maintenance of safe condition.* Repairs that are necessary to maintain a nonconforming use, structure, or tower in a safe condition;
- (B) *Correction of damage or deterioration.* Repairs that are necessary to correct any damage or deterioration to the structural soundness or interior appearance of a structure without altering the structure;
- (C) *Maintenance of land for safety.* Maintenance of land areas to protect against health hazards and promote the safety of surrounding uses; and
- (D) *Limited sign repairs and maintenance.* Repairs and maintenance of nonconforming signs, such as repainting and electrical repairs, whose costs do not exceed 50 percent of the replacement cost of the sign.

8.1.5 *Change of tenancy or ownership.* The status of a nonconforming use is not affected by changes of tenancy, ownership or management.

8.1.6 *Change in characteristics of use.* If the characteristics of a use (i.e., signage, off-street parking and loading, landscaping, density, intensity or other characteristic pertaining to the use), structure or premises are rendered nonconforming by the Comprehensive Plan, these LDRs, or an amendment thereto, no change shall be made that increases the nonconformity with the standards of these LDRs. However, changes that do not increase or that decrease the amount of nonconformity are allowed under these LDRs.

8.1.7 *Structural additions.* No structures or additions to structures shall be added to nonconforming uses, structures, or lots containing a nonconformity except in a manner that is consistent with the goals, objectives, and policies of the Comprehensive Plan and the standards of these LDRs.

8.1.8 *Discontinuance or abandonment.*

(1) *Generally.* If a nonconforming use or structure is discontinued or abandoned for a continuous period of 12 months or more, or is changed to or replaced by a conforming use or structure, it shall lose its nonconformity status, except as provided in Section 8.2.5, Reconstruction after casualty damage, or Section 8.3.5, Restoration after casualty damage.

(2) *Development after discontinuance or abandonment.* Any subsequent development shall be consistent with the goals, objectives, and policies of the Comprehensive Plan and shall comply with the standards in these LDRs.

(3) *Impeded access.* If an act of government prevents access to the nonconformity, the calculation of an abandonment or discontinuation period shall not include the amount of time when access was impeded.

Sec. 8.2. - Nonconforming uses.

8.2.1 *Generally.* Nonconforming uses are declared generally incompatible with the permitted uses in the zone district in which they are located and with the provisions of these LDRs. Nonconforming uses shall be subject to the standards set forth in this section.

8.2.2 *Change of use.*

(A) *Generally.* A nonconforming use shall not be changed to another nonconforming use, except in accordance with Section 2.4.15, Certificate of LDR compliance, and this section, and, only when the LDR Administrator determines the new nonconforming use is more similar to or comparable with the permitted uses in the district than the existing nonconforming use. In determining whether a proposed use is more similar to or comparable with the permitted uses in the zone district, the following factors shall be considered:

(1) *More comparable in size, type, and scope.* Whether the proposed nonconforming use is more comparable in size, type, and scope to permitted uses in the zone district;

(2) *More comparable in density and intensity of use.* Whether the proposed nonconforming use is more comparable in density or intensity, including hours of operation, traffic, noise, and similar visual impacts, to permitted uses in the zone district; and

(3) *Less detrimental effect.* Whether the proposed nonconforming use will have a less detrimental effect on conforming uses in the surrounding area than the existing nonconforming use.

- (B) *Off-street parking.* Any new nonconforming use approved in accordance with this subsection and Section 2.4.15, Certificate of LDR compliance, shall comply with the standards for off-street parking in Section 6.1, Off-street parking and loading standards, for the marginal increase of off-street parking required for the new conforming use versus the off-street parking required for the existing nonconforming use. Computation of parking required for the existing nonconforming use and the new nonconforming use shall be based on the land or building space subject to change.
- (C) *Conditions of approval.* In permitting the change in nonconforming use, the LDR Administrator may require appropriate conditions and safeguards to ensure consistency with the purposes of this subsection that the new nonconforming use is more compatible and comparable with permitted uses in the zone district than the existing nonconforming use.

8.2.3 *Expansion and enlargement.*

- (A) *Area occupied by nonconforming use.* A nonconforming use shall not be expanded in the structure's area occupied, except that it may be enlarged into any area of the same structure in which it is located that was manifestly arranged or designed for such use prior to the date it became a nonconformity.
- (B) *Moved to another location.* A nonconforming use shall not be moved to any other location or within the lot on which it is located unless the use conforms to the standards and requirements of these LDRs.
- (C) *Structure devoted to nonconforming use.* A structure devoted to a nonconforming use shall not be expanded, moved, or structurally altered except to change the structure to a use permitted in the district in which the structure is located.

8.2.4 *Accessory uses.* No use accessory to a principal nonconforming use shall continue after the principal use terminates, except in accordance with Subsection 8.2.2 of this section, Change of use.

8.2.5 *Reconstruction after casualty damage.*

- (A) *Damage up to 50 percent of value.* When a structure or portion of a structure housing a nonconforming use is damaged up to 50 percent of its replacement value at the time of the casualty, it may be restored if:
 - (1) Restoration is begun within 12 months and completed within 24 months of the date of the casualty; and
 - (2) Any expansion complies with Subsection 8.2.3 of this section, Expansion and enlargement.

In restoring the structure housing the nonconforming use, changes are permitted that reduce the degree or extent of the nonconforming use.

- (B) *Damage greater than 50 percent of value.* When a structure housing a nonconforming use is damaged to an extent of more than 50 percent of its replacement value at the time of the casualty, its status as a nonconformity terminates, and it shall not be restored except as a conforming use.

8.2.6 *Uses subject to special exception permit.* In cases where there are lawfully existing (developed) permitted uses in a zone district that are changed to special exception uses by amendment to these LDRs, any lawfully existing permitted uses (developed) at the time of amendment shall be considered conforming, and are not required to obtain approval of a special exception permit (Section 2.4.4). However, any expansion, enlargement, or intensification of the use shall require

approval of a special exception permit in accordance with Section 2.4.4, Special exception permit. (Failure to obtain special exception approval prior to expansion, enlargement, or intensification shall constitute a violation of these LDRs, and shall render the use nonconforming.)

Sec. 8.3. - Nonconforming structures.

8.3.1 *Relationship with nonconforming uses.* Where a nonconforming structure houses a nonconforming use, the regulations for nonconforming structures and nonconforming uses shall both apply. In case of conflict, the rules for nonconforming uses shall prevail.

8.3.2 *Continuation.* A nonconforming structure may continue as it existed when it became nonconforming, as long as it is maintained in its then structural condition.

8.3.3 *Enlargement.*

(A) *No enlargement or expansion if increase nonconformity.* Any enlargement, alteration, or expansion of a nonconforming structure that increases the degree of nonconformity is prohibited. (For example, a structure that has a five-foot side setback where these LDRs require a ten-foot side setback cannot be enlarged to further encroach into the side setback.)

(B) *May enlarge or expand if increase nonconformity.* A nonconforming structure may be enlarged, extended, reconstructed, altered, or structurally altered in ways that do not increase or intensify the elements of nonconformity, or in ways which decrease the amount of nonconformity.

8.3.4 *Relocation.* A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless it conforms to the standards of these LDRs.

8.3.5 *Restoration after casualty damage.*

(A) *Damage up to 50 percent of value.* When a nonconforming structure is damaged up to 50 percent of its replacement value at the time of the casualty, it may be restored if:

- (1) Restoration is begun within 12 months and completed within 24 months of the date of the casualty; and
- (2) Any expansion complies with Subsection 8.3.3 of this section, Enlargement.

In restoring the structure, changes are permitted that reduce the degree or extent of nonconformity.

(B) *Damage greater than 50 percent of value.* When a nonconforming structure is damaged to an extent of more than 50 percent of its replacement value at the time of the casualty, its status as a nonconformity terminates, and it shall not be restored except as a conforming use.

Sec. 8.4. - Nonconforming lots of record.

8.4.1 *Status of structures on nonconforming lots.* Conforming structures on a nonconforming lot may be continued, enlarged, extended, reconstructed or structurally altered in any way that is in conformance with the standards of these LDRs.

8.4.2 *Development of unimproved lots in residential districts.*

(A) *Generally.* If an unimproved lot in a residential district was part of a subdivision or division of land evidenced by plat or deed, or both, recorded prior to January 22, 1992, one single-family detached dwelling and any customary accessory structures may be developed on the lot, even though the lot does not comply with the minimum lot area or width standards established in Table 5.1-2, Table of Dimensional Standards in the Residential Districts, provided such use is an allowable use in the zone district where the lot is located. The following standards shall also apply:

- (1) The lot shall be in separate ownership;
- (2) The lot shall not be of continuous frontage with other lots under the same ownership;
- (3) The development shall conform to all other standards of these LDRs, including setback standards, or shall have obtained a variance permit in accordance with Section 2.4.7, Variance permits.

(B) *Consolidation.* If two or more adjacent unimproved lots of record are in a residential district and under single ownership, and do not individually meet the minimum lot width or area standards for the district where they are located (see Table 5.1-2, Table of Dimensional Standards in the Residential Districts), such lots shall be treated as a single lot for the purposes of development, and shall be subject to the standards of these LDRs.

8.4.3 *Development of improved lots in residential districts after casualty.* If an improvement is destroyed by casualty, or is demolished for the purposes of reconstruction as a part of a local, State or Federal Housing Rehabilitation Program, on a lot of record in a residential district, one single-family detached dwelling (or mobile home dwelling in the RMH and RMH-P districts) and any customary accessory structures may be reestablished on the lot within 18 months of the casualty. This development after casualty may take place even though the lot does not comply with the minimum area, setbacks, or, width standards in Table 5.1-2, Table of Dimensional Standards in the Residential Districts.

8.4.4 *Governmental acquisition of lot in residential district.* Governmental acquisition of a portion of a lot for a public purpose in a residential district that results in reduction in lot width and area below that required by Table 5.1-2, Table of Dimensional Standards in the Residential Districts, shall not make the lot nonconforming.

Sec. 8.5. - Nonconforming signs.

8.5.1 A sign which was lawfully erected prior to February 27, 2006, but which does not conform in one or more respects with the requirements of Section 6.5 may remain in use, subject to the requirements of these LDRs and other applicable requirements of City of Alachua ordinances. For purposes of this subsection, a sign which was erected in accordance with the terms of a variance approved by the Board of Adjustment shall be considered to have been lawfully erected.

8.5.2 Any lighting which does not conform to Section 6.5 and which is not an integral part of the sign that it lights shall be removed.

8.5.3 Any sign which does not conform to Section 6.5 because of a lack of required maintenance or deferred maintenance shall be removed.

8.5.4 Limitations on other nonconforming signs.

(A)

Except as otherwise provided in Section 6.5, any on-premises sign which is located on property which becomes vacant and unoccupied for a period of at least three months, or any sign which pertains to a time, event, or purpose which is no longer imminent or pending shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management shall not be deemed abandoned unless the property remains vacant for a period of six months. Abandoned signs are prohibited and shall be removed by the owner of the sign or the owner of the premises.

- (B) Any other nonconforming sign that shall cease being used or cease being leased for a continuous period of six months shall be considered abandoned.
- (C) Any person obtaining a permit from the City for construction of a new building, for expansion of an existing building by more than 1,000 square feet or ten percent of its floor area, whichever is less, or for any improvements valued for permitting purposes at more than \$25,000.00 shall, as part of the work or at the same time as the work is performed, remove all nonconforming signs from the property, which nonconforming signs shall be replaced only with signs fully conforming with the requirements of Section 6.5 and these LDRs. If the property affected is a multitenant property, then the person obtaining the permit shall be required only to remove the nonconforming signs directly appurtenant to the portion of the premises for which the permit is issued.
- (D) Change of copy or the substitution of panels or faces on nonconforming signs shall be permitted without affecting the legal status of the sign as a nonconforming sign (subject to requirements for building and electrical permits). Repairs and maintenance of nonconforming signs, such as repainting, electrical repairs and neon tubing, shall be permitted.

(Ord. No. 18-01, § 3(Exh. A), 10-23-2017)

Sec. 8.6. - Nonconforming towers.

- 8.6.1 *Continuance.* Nonconforming towers are allowed to continue.
- 8.6.2 *Minor repairs and normal maintenance.* Minor repairs and normal maintenance that is required to keep nonconforming towers in a safe condition is permitted, provided the minor repairs and normal maintenance do not extend or expand any nonconforming tower.
- 8.6.3 *Enlargement.* There shall be no expansion or enlargement of a nonconforming tower, except in compliance with the standards of these LDRs. Nothing in this subsection shall prevent the addition of antennas or other equipment to a nonconforming tower, provided they do not increase the overall height of the tower, and provided any ground-based equipment is fenced and screened in accordance with the requirements of these LDRs.
- 8.6.4 *Reconstruction after damage or destruction.* Nonconforming towers or antennas that are damaged or destroyed may be rebuilt to their preexisting condition and form within 180 days of the damage or destruction without having to first obtain administrative approval or a special use permit. If the nonconforming tower is not rebuilt within 180 days of its damage or destruction, it shall be considered abandoned, and shall comply with the standards and requirements of these LDRs.
- 8.6.5 *Abandonment.* Any antenna or tower that is not operated for a continuous period of 12 months shall receive notice from the LDR Administrator of the abandonment. Failure to remove the abandoned antenna or tower within 90 days of notification shall be grounds to remove the tower or antenna at the landowner's expense.

Sec. 8.7. - Correction of other nonconformities.

The remodeling of interior and exterior structures on lands platted and lots of record established after February 27, 2006, that are nonconforming, and the expansion of nonconforming structures shall be subject to the following requirements for off-street parking and landscaping:

8.7.1 *Interior and exterior remodeling of buildings or structures.* If a building permit is required for interior or exterior remodeling of the building or structure, the remodeling shall require correction of existing on-site nonconforming off-street parking and landscape standards in accordance with this section. (See also Section 6.1, Off-street parking and loading standards, and Section 6.2, Tree protection/landscape/xeriscape standards.)

- (A) *25 percent or less of FMV of structure.* Remodeling in any continuous 12-month period that costs 25 percent or less of the current fair market value (FMV) of the structure shall not require any correction. (See Table 8.7-1, Required Correction of Other Nonconformities.)
- (B) *More than 25 percent but less than 75 percent of FMV of structure.* Remodeling in any continuous 12-month period that costs more than 25 percent but less than 75 percent of the current fair market value (FMV) of the structure shall require that a corresponding percentage of the off-street parking and landscaping standards of these LDRs be installed on the site, until the site achieves 100 percent compliance. (For example, if a site has 20 of 30 required parking spaces (66 percent of the required parking) and the cost of the remodeling is 30 percent of the value of the building, then 30 percent of the total amount of required off-street parking shall be provided, or nine spaces, bringing the parking to 96 percent of the total amount of off-street parking required under these LDRs). (See Table 8.7-1, Required Correction of Other Nonconformities.)
- (C) *75 percent or more of FMV of structure.* Remodeling projects that cost 75 percent or more of the current fair market value (FMV) of the structure shall require 100 percent compliance with the off-street parking and landscaping standards of these LDRs. (See Table 8.7-1, Required Correction of Other Nonconformities).
- (D) *Five or fewer additional parking spaces.* When five or fewer additional off-street parking spaces are required under this subsection as a result of a remodeling project, such additional off-street parking is not required to be installed. (See Table 8.7-1, Required Correction of Other Nonconformities.)
- (E) *Physically constrained properties; comply to maximum extent practicable.* Lands that are physically constrained from complying with these provisions shall comply to the maximum extent practicable, as determined by the LDR Administrator. For purposes of determining when a correction is required, the cost of the remodeling shall be as shown on the approved building permit application and the current fair market value of the existing structure shall be based on a market appraisal performed by a certified appraiser, at the applicant's expense.

8.7.2 *Additions and expansions.* Additions to structures on nonconforming sites shall require correction of existing on-site nonconforming off-street parking and landscaping in accordance with this section.

- (A) *Expansion of 50 percent or less of gross square footage over five years.* Expansions in any continuous five-year period, that result in a 50 percent or less increase in the gross square footage of the existing structure (measured at the beginning of the five-year period), or the addition of new or increased areas for outdoor operations/storage/display which would result in a 50 percent or less increase of the gross square footage for such outdoor operations/storage/display, require that a corresponding percentage of the off-street parking and landscaping standards of these LDRs (see Section 6.1, Off-street parking and loading standards, and Section 6.2, Tree protection/landscape/xeriscape standards) be installed on the site, until the site achieves 100

percent compliance. (For example, if the addition is 25 percent of the area of the existing structure and the site contains only 50 percent of the required landscaping, 25 percent of the required landscaping for the entire site must be provided, thereby bringing the landscaping on the site to 75 percent of the total required.) Existing landscaping on the site shall be retained or replaced but shall not count toward the required percentage of new landscaping. (See Table 8.7-1, Required Correction of Other Nonconformities.)

- (B) *Expansion of greater than 50 percent of gross square footage over five years.* Expansions over any continuous five-year period, that results in a greater than 50 percent increase of the gross square footage of the existing structure (measured at the beginning of the five-year period), or the addition of new or increased areas for outdoor operations/storage/display that result in a greater than 50 percent increase of the gross square footage for such outdoor operations/storage/display, require the entire parcel of land to meet all of the off-street parking and landscaping standards of these LDRs. (See Table 8.7-1, Required Correction of Other Nonconformities.)
- (C) *Physically constrained properties; comply to maximum extent practicable.* Lands that are physically constrained from complying with these provisions shall comply to the maximum extent practicable.

Table 8.7-1. Required Correction of Other Nonconformities

Type of Development	Required Compliance with Standards of these LDRs
Remodeling (cost as percentage of FMV of existing structure in any continuous 12-month period)	
25 percent or less	No correction to existing nonconforming off-street parking or landscaping standards is required.
More than 25 percent, but less than 75 percent	Off-street parking and landscaping shall be added. Percent of total required off-street parking and landscaping added shall be based on percent value of remodeling in relation to FMV of existing structure. For example, if a site has 20 of 30 required parking spaces (66 percent of the total required parking under these LDRs) and the cost of remodeling is 30 percent of the value of the building, then 30 percent of the total required off-street parking shall be provided, or 9 spaces (bringing the total amount of the required off-street parking up to 96 percent of the total required).
75 percent or more	Site shall comply fully with off-street parking and landscaping.

Expansion (percentage increase in any continuous five-year period)	
50 percent or less of gross square footage of existing structure	Off-street parking and landscaping shall be added. Percent of total required off-street parking and landscaping added shall be based on percent increase in expansion. For example, if the addition is 25 percent of the size of the existing structure and the site contains only 50 percent of the required landscaping, 25 percent of the required landscaping for the entire site must be provided, thereby bringing the landscaping on the site to 75 percent of the total required. Existing landscaping on the site shall be retained or replaced but shall not count toward the required percentage of new landscaping.
50 percent or less of gross square footage for outdoor operations, storage or display	Off-street parking and landscaping shall be added. Percent of total required off-street parking and landscaping added shall be based on percent increase in expansion. For example, if the addition is 25 percent of the size of the existing structure and the site contains only 50 percent of the required landscaping, 25 percent of the required landscaping for the entire site must be provided, thereby bringing the landscaping on the site to 75 percent of the total required. Existing landscaping on the site shall be retained or replaced but shall not count toward the required percentage of new landscaping.
Greater than 50 percent of gross square footage of existing structure	Site shall comply fully with off-street parking and landscaping.
Greater than 50 percent of gross square footage for outdoor operations, storage or display	Site shall comply fully with off-street parking and landscaping.

Article 9 - ENFORCEMENT AND REMEDIES

Sec. 9.1. - Purpose.

This article establishes procedures through which the City seeks to ensure compliance with the provisions of these LDRs and obtain corrections for LDR violations. It also sets forth the remedies and penalties that apply to violations of these LDRs. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.

Sec. 9.2. - Compliance required.

Compliance with all provisions of these LDRs is required by all persons owning, developing, managing, using, or occupying land or structures in the City. It shall be unlawful for any person to construct, reconstruct, alter, demolish, change the use of or occupy any land, building or other structure within the City in violation of these LDRs.

Sec. 9.3. - Violations.

9.3.1 *Violations generally.*

- (A) *Failure to comply constitutes a violation.* Any failure to comply with a requirement, standard, prohibition, or limitation imposed by these LDRs, or the terms or conditions of any development permit or other approval or authorization granted pursuant to these LDRs, shall constitute a violation of these LDRs.
- (B) *Development permit approvals only authorize development approved.* Development permits issued on the basis of plans and applications approved by the City Commission, Planning and Zoning Board (PZB), Board of Adjustment (BOA), LDR Administrator, Public Services Director or other officials or agencies where additional approval is required, authorize only the use, arrangement, location and construction set forth in such permits, and no other use, arrangement, location or construction. Development at variance with that authorized shall be deemed a violation of these LDRs, punishable as provided in this article.

9.3.2 *Specific violations.* It shall be a violation of these LDRs to do any of the following:

- (A) *Develop land or structure without obtaining appropriate development permit.* Develop land or a structure without first obtaining the appropriate development permit.
- (B) *Occupy or use land or structure without obtaining appropriate development permit.* Occupy or use land or a structure without first obtaining the appropriate development permit.
- (C) *Develop land or structure without complying with conditions of development permit approval.* Develop land or a structure without complying with the terms or conditions of the development permit required to engage in development.
- (D) *Occupy or use land or structure in violation of conditions of development permit.* Occupy or use land or a structure in violation of the terms or conditions of the development permit or permit approval.

- (E) *Subdivide land without obtaining appropriate development permit.* Subdivide land without first obtaining the appropriate development permit or permit approvals required to engage in subdivision.
- (F) *Subdivide land without complying with terms or conditions of subdivision approval.* Subdivide land without complying with the terms or conditions of the subdivision approval required to engage in development.
- (G) *Excavate, grade, cut, clear or undertake other land disturbing activity without appropriate permit or permit approvals and compliance with terms and conditions of approval.* Excavate, grade, cut, clear or undertake any and disturbing activity without first obtaining all appropriate development permits and permit approvals, and complying with their terms and conditions.
- (H) *Remove trees without appropriate permit.* Remove existing trees from a site or parcel of land without first obtaining appropriate development permits and permit approvals, and complying with their terms and conditions.
- (I) *Construction of signs without appropriate permit.* Install, create, erect, alter, or maintain any sign without first obtaining the appropriate development permit or permit approval. Installation, creation, alteration, or erection of a sign without a permit shall be considered a violation by the owner or lessee in control of the property, by the user identified on the sign and by the person or entity installing, creating, altering, or erecting the sign.
- (J) *Construction of signs in violation of approved plan or permit.* Install, create, erect, alter, or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the development site on which the sign is located.
- (K) *Removal of signs.* Fail to remove any sign installed, created, erected, altered, or maintained in violation of these LDRs, or for which the sign permit has lapsed.
- (L) *Nonconformities.* Create, expand, replace, or change any nonconformity except in compliance with these LDRs.
- (M) *Reduce or diminish development, design, or dimensional standards.* Reduce or diminish the requirements for development, design, or dimensional standards below the minimum required by these LDRs.
- (N) *Density or intensity of development.* Increase the intensity or density of development, except in accordance with the standards of these LDRs.
- (O) *Any other action or omission that violates these LDRs.* Through any act or omission, fail to comply with any other provisions, procedures, or standards as required by these LDRs.

Sec. 9.4. - Responsible persons.

Any person who owns property that is in violation of these LDRs shall be subject to the remedies and penalties set forth in this article.

Sec. 9.5. - Enforcement generally.

9.5.1 *Responsibility for enforcement.*

- (A) The LDR Administrator shall be responsible for enforcing the provisions of these LDRs. Nothing in this subsection shall prevent the LDR Administrator from

delegating authority to another City official, such as a Code Enforcement Officer, in accordance with Section 10.1.5, Delegation of authority.

(B) The Code Enforcement Officer may prosecute any violation of the provisions of these LDRs in accordance with the standards and procedures in this article.

9.5.2 *Notice of violations.*

(A) When the LDR Administrator finds a violation of these LDRs, the LDR Administrator shall notify, in writing, the person violating these LDRs. Such notification shall indicate the nature of the violation, order the necessary action to abate the violation, give a deadline for correcting the violation, and state the action to be taken if the violation is not corrected within the specified timeframe.

(B) If a violation is not corrected within the specified period of time provided, the LDR Administrator shall schedule a hearing before the Special Magistrate, who shall take appropriate action, as provided in Section 9.7, Remedies and penalties, to correct and abate the violation and to ensure compliance with these LDRs.

9.5.3 *Complaints regarding violations.* Whenever a violation of these LDRs occurs, or is alleged to have occurred, any person may file a complaint. Such complaint shall state fully the alleged violation and the basis for the alleged violation, and shall be filed with the LDR Administrator, who shall maintain a record of the complaint. The complaint shall be investigated promptly by the LDR Administrator as provided in Subsection 9.5.4 of this section, Inspections to ensure compliance, and if a violation is found to exist, action shall be taken to abate or correct the violation.

9.5.4 *Inspections to ensure compliance.* Upon presentation of proper credentials, the LDR Administrator may enter upon land or inspect any structure to ensure compliance with the provisions of these LDRs. These inspections shall be carried out during normal business hours unless the LDR Administrator determines there is an emergency necessitating inspections at another time or times.

Sec. 9.6. - Special Magistrate.

The City has adopted in Chapter 12, Article II of its Code of Ordinances, the utilization of a Special Magistrate for holding hearings and assessing fines against violators of municipal ordinances, including violations of applicable land development regulations.

(Ord. No. 06-31, § 14, 12-18-2006)

Sec. 9.7. - Remedies and penalties.

9.7.1 *Remedies and penalties available to City.* The City may use any combination of the following enforcement actions, remedies, and penalties to correct, stop, abate and enjoin a violation of these LDRs:

(A) *Notification of violation.* The City may issue a notification to the person responsible for violating these LDRs, requiring the person to abate the violation. If, however, a person who has been issued a notice for violating these LDRs abates the violation, but shortly thereafter reinstates or reinitiates the violation, the City may pursue other remedies without reissuing a notice pursuant to this section.

(B) *Hearing before Special Magistrate.* The LDR Administrator may notify the Code Enforcement Officer, who shall provide notice and schedule a hearing in front of

the Special Magistrate to determine why a violation has not been corrected and determine the appropriate remedy or penalty.

(C) *Stop order.* The LDR Administrator, Building Official, City Attorney, City Manager or Special Magistrate may issue and serve upon a person pursuing the activity or activities in violation of these LDRs a stop order requiring that the person stop all activities in violation of these LDRs.

(D) *Permit revocation.* Any development permit, or other form of authorization required under these LDRs may be revoked by the City if it determines that:

- (1) There is a failure to comply with the approved development permit, plans, specifications, or terms or conditions required under the development permit;
- (2) The development permit was procured by false representation; or
- (3) The development permit was issued in error.

Written notice of revocation shall be served upon the landowner, the landowner's agent, applicant, or other person to whom the development permit was issued, and such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice.

(E) *Civil remedies.* In addition to all other remedies and penalties outlined in this article, the City Commission or any aggrieved or interested person shall have the right to apply to the Circuit Court of Alachua County, Florida, to enjoin and restrain any person violating the provisions of these LDRs, and the court shall, upon proof of the violation of same, have the duty to forthwith issue such temporary and permanent injunctions as are necessary to prevent the violation of same.

(F) *Criminal remedies.*

(1) Any person violating any of the provisions of these LDRs or who shall fail to abide by and obey all orders and resolutions promulgated as herein provided shall be guilty of a misdemeanor of the second degree, and shall be subject to all criminal penalties authorized by the State of Florida for such violation, including upon conviction, a fine not to exceed \$250.00 per day for a first violation and shall not exceed \$500.00 per day for a repeat violation, and, in addition, may include all costs of repairs undertaken by the City. The Special Magistrate may impose a fine not to exceed \$5,000.00 per violation if it finds the violation to be irreparable or irreversible in nature.

(2) A certified copy of an order imposing a fine, or a fine plus repair costs (if applicable), shall be recorded with the Alachua County Clerk of Court, and shall constitute a lien against the land on which the violation exists. The fine imposed in accordance with this section shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit filed in accordance with F.S. § 162.09, whichever occurs first.

9.7.2 *Remedies cumulative.* The remedies provided for violations of these LDRs, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

Sec. 9.8. - Signs; violations, enforcement and remedies.

9.8.1 *Violations.* Any of violation of Section 6.5 shall be subject to the enforcement remedies and penalties provided by this section, by these LDRs, by other ordinances of the City of Alachua, and by State law. Each sign installed, created, erected, altered, or maintained in violation of these LDRs shall be considered a separate violation

when applying the penalty portions of this section.

9.8.2 *Enforcement and remedies.*

- (A) Any violation of Section 6.5 or of any conditions or requirement adopted pursuant hereto may be restrained, corrected, or abated, as the case may be, by injunction or other appropriate proceedings pursuant to State law. A violation of Section 6.5 shall be considered a violation of the City of Alachua ordinances. The remedies of the City shall include the following:
- (1) Denying a permit for such sign or for work related to it;
 - (2) Issuing a stop work order for any and all work on any signs on the same development site;
 - (3) Seeking an injunction or other order of restraint or abatement that requires the removal of the sign or the correction of the nonconformity;
 - (4) Seeking an injunction or other order of restraint against any contractor or other person who has installed, erected, created, altered, or maintained more than two signs in any 12-month period without obtaining the permits for such signs;
 - (5) Imposing any penalties that can be imposed directly by the City of Alachua under this Section 6.5, under the LDRs, under other ordinances of the City of Alachua, and under State law;
 - (6) Seeking in court the imposition of any penalties that can be imposed by such court under Section 6.5;
- (B) In the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the City of Alachua under the applicable provisions of the portions of this section for such circumstances; and
- (C) Signs erected in the right-of-way that do not meet the requirements of Section 6.5 shall be considered abandoned property and may be immediately removed by direction of the LDR Administrator at any time, without notice.

9.8.3 *Process for removal of signs.*

- (A) *Removal; when permitted.* The City has the right, but not the obligation, to remove any sign that is being maintained contrary to any of the terms and provisions of the LDRs, and any such sign is hereby deemed a public nuisance.
- (B) *Notice.*
- (1) *Notice; contents.* The LDR Administrator shall give notice to the person owning such sign and to the owner or lessee of the property upon which the same is located specifying the location of such sign and the nature of the violation being committed by the maintenance or keeping of the same. Such notice shall also specify what is required in order to conform such sign to the requirements of the provisions of these LDRs. Such notice shall further specify that in the event such sign is not conformed to the provisions of these LDRs, the City will take any and all action necessary in order to accomplish such result, all at the cost and expense of both the person owning such sign and the owner or lessee of the property upon which the same is situated.
 - (2)

Service of notice. Notice shall be served by personal service or by certified mail, return receipt requested. Service by mail shall be deemed complete upon delivery. In the event that the address of the person to be notified is unknown or the certified mail is returned either unclaimed or refused, such notice may be served by posting the same in a conspicuous place on the premises upon which the offending sign is located, in which event service shall be deemed complete as of the moment of posting.

- (3) *Remedial action required.* The person owning the offending sign and/or the owner or lessee of the property upon which the same is situated, within 15 days after the receipt or the posting of the aforementioned notice, whichever is applicable, shall take whatever action is necessary in order to remedy and cure the defects pointed out in the notice given by the LDR Administrator.
 - (4) *Further action by City.* If the owner of the offending sign and/or the owner or lessee of the property upon which the same is situated shall fail to remedy the defects pointed out in the notice given by the LDR Administrator within the 15-day period, the LDR Administrator may cause such sign to be removed at the expense of both the owner of said sign and/or the owner or lessee of the property upon which the same is located. If the City chooses not to remove said sign, its rights shall not be waived to pursue other remedies as described in this section. Notwithstanding anything hereinabove to the contrary, the LDR Administrator may forthwith remove any sign where the same is imminently dangerous to the general health, safety, and welfare of the public or where the same poses an immediate threat thereto.
- (C) *Other remedies.* The City of Alachua shall have such other remedies as are and as may from time to time be provided for or allowed by State law or the City of Alachua Charter.
- (D) *Remedies cumulative.* All such remedies provided herein shall be cumulative. To the extent that State law may limit the availability of a particular remedy set forth herein for a certain violation of Section 6.5 or a portion thereof, such remedy shall remain available for other violations or other provisions of the LDRs.
- (E) *Attorneys' fees and costs.* To the extent permitted under Florida law and the rules of court, the City of Alachua shall be entitled to recover its attorneys' fees and court costs in any action brought for enforcement of this section.

Article 10 - DEFINITIONS

Sec. 10.1. - Rules of interpretation.

The following rules shall apply for construing or interpreting the terms and provisions of these LDRs:

- 10.1.1 *Meanings and intent.* All provisions, terms, phrases, and expressions contained in these LDRs shall be construed according to the general purposes set forth in Section 1.3, General purpose, and the specific purpose statements set forth throughout these regulations. When a specific section of these regulations gives a different meaning than the general definition provided in this article, the specific section's meaning and application of the term shall control.
- 10.1.1 *Headings, illustrations and text.* In the event of a conflict or inconsistency between the text of these regulations and any heading, caption, figure, illustration, table or map, the text shall control.

- 10.1.2 *Lists and examples.* Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.
- 10.1.3 *Computation of time.* The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the City. References to days are calendar days unless otherwise stated.
- 10.1.4 *References to other regulations/publications.* Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.
- 10.1.5 *Delegation of authority.* Any act authorized by these LDRs to be carried out by a specific official of the City may be carried out by a designee of such official.
- 10.1.6 *Technical and nontechnical terms.* Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
- 10.1.7 *Public officials and agencies.* All public officials, bodies and agencies to which references are made are those of the City of Alachua, unless otherwise indicated.
- 10.1.8 *Mandatory and discretionary terms.* The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.
- 10.1.9 *Conjunctions.* Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:
- (A) "And" indicates that all connected items, conditions, provisions or events apply; and
 - (B) "Or" indicates that one or more of the connected items, conditions, provisions or events apply.
- 10.1.10 *Tenses, plurals and gender.* Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

Sec. 10.2. - Definitions.

Abutting or adjacent property means abutting or adjacent property means property that is immediately adjacent to the property being considered under these LDRs.

Access means the primary means of ingress and egress to abutting property from a dedicated right-of-way.

Accessory structure means a structure that is subordinate in use and square footage to a principal structure or permitted use.

Addition means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall.

Any walled and roofed addition which is connected by a firewall or is separated by an independent perimeter load bearing wall is new construction.

Administrative adjustment means a permit reviewed and approved, approved with conditions, or denied by the LDR Administrator in accordance with Section 2.4.8, Administrative adjustment.

Adult day care center means a licensed facility, whether operated for profit or not, which is provided through its ownership or management, for a part of the day only, providing basic care services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and require such services. (See F.S. ch. 400.)

Adverse effect means a negative consequence for the physical, social, or economic environment resulting from an action or project.

Affected party means, for the purposes of Section 2.2.9(A)(8), Notify affected parties where they may be heard, any person who will suffer an adverse effect to a property interest from the proposed application for development permit, including interests related to health and safety, densities and intensities, traffic congestion, environmental impacts, aesthetic impacts, and similar effects. Any person who has land adjacent to the land subject to the application for development permit is an affected party.

Affordable housing means housing that is available at a total cost (including monthly rents or mortgages, taxes, insurance, and utilities) that does not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for low-income households or very low-income households.

Aggrieved or adversely affected person means any person (including an owner, developer, or applicant for a development order) who will suffer an adverse effect to an interest protected or furthered by the local government Comprehensive Plan, including interests related to health and safety, police and fire protection service systems, densities or intensities of development, transportation facilities, health care facilities, equipment or services, and environmental or natural resources. The alleged adverse interest 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.

Agricultural processing means processing operations for agricultural products raised on the premises or locally only, including: meat preparation; feed mills; dairy processing; timber processing; and fruit and vegetable packing, sorting and grading, as an accessory use to an agriculture, horticulture or animal husbandry use.

Agricultural research facility means a facility for the investigation, testing, and demonstration of agricultural products and processes, including biotechnical agriculture, veterinary, soil, plant and animal sciences.

Agriculture, general use category means uses characterized by general active and ongoing agricultural activities, including agronomy, aquaculture, biotechnical agriculture (including education parks for biotechnical agriculture or a demonstration farm), forestry, fisheries, apiculture, silviculture (including the harvesting of timber) and similar uses. The term "agriculture" does not include a grocery store or the retail or wholesale sale of products remotely related to the production of agricultural products. The term "agriculture" does not include preparatory functions such as grading or creation of planting beds through stockpiling of dirt or other means when such preparations do not result in an active and ongoing agricultural activity within 30 days. Accessory uses may include offices, storage areas and repair facilities related to agriculture uses. See also Section 4.2.4(A).

Agriculture support and services (directly related). See Section 4.2.4(D).

Agriculture support and services (not directly related). See Section 4.2.4(E).

Agri-education means a facility for the investigation, testing, or demonstration of, or for training or educating persons in, products and processes related to agriculture, horticulture, or animal husbandry, including biotechnical agriculture, veterinary, soil, plant and animal sciences.

Agri-entertainment means events and activities such as corn mazes, hay rides and petting zoos that allow for recreation, entertainment and tourism in conjunction with agriculture support (directly related).

Airplane landing strip means any area designed and used for the takeoff and landing of small private aircraft, having no more than one airstrip.

Airport means any area of land or water designed and set aside for the landing and take off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

Alley or service drive means a private right-of-way or easement which affords only a secondary means of access to property abutting thereon, provided however, that within cottage neighborhoods, an alley or service drive may serve as the primary means of vehicular access to cottage homes.

Alter or alteration of a stormwater management system means, for the purposes of Section 6.9.3, Stormwater management standards, work done other than that necessary to maintain the system's original design and function.

Alteration of a watercourse means 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.

Amended certificate of concurrency compliance means a certificate of concurrency compliance obtained from the LDR Administrator due to changes in a proposed development's timing, density, or intensity in accordance with Section 2.4.14 of these LDRs.

Amphitheater means a building or structure designed or intended for use for spectator sports, entertainment events, expositions, and other public gatherings. Such uses may or may not include lighting facilities for illuminating the field or stage area, concessions, parking facilities and maintenance areas.

Animal care business means an enterprise that provides care and services for livestock or other farm animals, such as animal grooming or training, but which is not a kennel, a veterinary service, or an animal hospital.

Animal grooming means any place or establishment, public or private, where animals are bathed, clipped, or combed for the purposes of enhancing their aesthetic value and/or health and for which a fee is charged.

Animal hospital means a place for the medical care of animals; a veterinary hospital. The boarding of animals at an animal hospital is limited to that incidental to the hospital use.

Animal husbandry, general use category means the active and ongoing propagation, rearing, exercising, feeding, milking, housing, controlling, handling or general care of living animals, including the raising and production of cattle (beef and dairy), pigs, mules, ducks, emus, horses, goats, llamas, poultry, sheep and similar animal husbandry uses. Animal husbandry also includes the raising and production of aquatic or hydroponic plants and animals. See also Section 4.2.4(B).

Animal sales, services and care. See Section 4.2.4(F).

Animal shelter means a facility used to house and care for stray, homeless, abandoned or neglected animals and that is owned, operated or maintained by a public body, an established humane society, or other private or nonprofit organization.

Annual concurrency status report means the report issued once each year as a supplement to the monthly development report that assesses the impacts of the approved development listed in the monthly development report upon the adopted level of service standards for those public facilities subject to concurrency in accordance with Section 2.4.14.

Antenna. See definition of *Wireless telecommunication antenna*.

Appellant means one who files an appeal.

Aquifer or *aquifer system* means a geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

Arboretum means a place where trees, shrubs, or other woody plants are grown, exhibited or labeled for scientific, educational or passive recreational purposes, not including the harvest of plants or their produce.

Arcade means an area contiguous to a street or public plaza that is accessible to the public at all times, and that provides covered or semi-covered pedestrian ways, visibility to storefronts, landscaping and other pedestrian features such as seating.

Archery range means an outdoor facility that may include buildings or structures used for target practice with bows and arrows.

Arterial street means a major street for carrying a large volume of traffic in the area; normally controlled by traffic signs and signals.

ASCE 24 means a standard titled Flood Resistant Design and Construction that is referenced by the Florida Building Code, as amended. ASCE 24 is developed and published by the American Society of Civil Engineers, Reston, VA.

Assisted living facility means a building, section or distinct part of a building, private home, boardinghome, home for the aged, or other residential facility, whether operated for profit or not, which undertakes through its ownership or management to provide housing, meals, health care assistance, 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 (see F.S. ch. 400). Accessory uses may include dining rooms and infirmary facilities for intermediate or skilled nursing care solely for the use of the occupants residing in the principal facility. The term "assisted living facility" includes nursing homes and convalescent homes.

Auction arena for livestock means a place where livestock or farm equipment is offered by a broker or auctioneer for sale to persons who bid on the items in competition with each other at scheduled sales periods or events.

Auction house means a place where the property of others, such as objects of art, furniture and other goods (except livestock), are offered by a broker or auctioneer for sale to persons who bid on the items in competition with each other at scheduled sales periods or events.

Auditorium means a building or structure designed or intended for use for spectator sports, entertainment events, expositions and other public gatherings.

Authorized agent means a person with express written consent to act upon a landowner's behalf.

Auto service station means the general repair, rebuilding or reconditioning of engines, motor vehicles or trailers, not including bodywork, framework, welding and major painting service.

Auto service station and wash and detail means the general repair, rebuilding or reconditioning of engines, motor vehicles or trailers, not including bodywork, framework, welding, major painting service and carwash and detailing services.

Automatic standby generator means a natural gas, liquid gas propane or diesel fuel powered generator which is permanently connected to the electrical system of a principal structure and only operates in the event of a power outage in order to provide backup power to the principal structure. Gasoline powered generators are not permitted as standby generators that are permanently connected to electrical systems of principal structures.

Automobile includes automobiles and light trucks. The term "light truck" means a motorized vehicle with a manufacturer-defined "curb weight" (fully fueled vehicle weight with no passengers or cargo) of three tons (6,000 pounds) or less.

Automobile body shop means the repair of automobiles, vehicles or trailers, including body work, framework, welding and major painting service.

Automobile parts sales means premises which is used for the display and sale of new or used parts for automobiles, light trucks, vans, trailers, or recreation vehicles.

Automobile rental and sales means premises on which new or used passenger automobiles, trailers, or light trucks in operating condition are displayed for sale, lease or rental.

Automobile repair and servicing means the general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, not including body work, framework, welding and major painting service.

Axis means the centerline of a structure which divides the structure into two halves.

Backhaul network means, for the purposes of Section 4.3.2(I)(1), the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

Banquet hall means a building, facility, room, or portion thereof, which is rented, leased or otherwise made available to any person or group for a private event or function, that is not open to the general public, whether or not a fee is charged. Also known as a meeting hall or reception hall, but does not include private clubs or lodges.

Bar, nightclub or cocktail lounge means an establishment having as its principal or predominant use the serving of beer, wine, or liquor for consumption on the premises. Sandwiches, light meals, snacks and/or full-service meals are available for consumption on the premises but are not the principal or predominant use of the establishment.

Base flood means, for the purposes of Section 6.9.4, Floodprone area standards, the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation has the meaning as defined in Section 202, Florida Building Code, as amended.

Basement means that portion of a building between the floor and ceiling, which is partly below and partly above grade, but located so that the vertical distance from the grade to the floor below is less than the vertical distance from the grade to the ceiling; provided, however, that the distance from the grade to the ceiling shall be at least four feet six inches; provided however, for purposes of Section 6.9.4, Floodprone area standards, basement has the meaning as defined in Section 202, Florida Building Code, as amended, for flood loads.

Bath house means an establishment which is not a hotel, but which contains any combination of baths, showers, saunas and pools for public use and which excludes persons under the age of 18 from part or all of the facility that is open to adults.

Bed and breakfast means a private residence, generally a single-family dwelling, in which guestrooms are made available to transient visitors. The establishment shall not contain restaurant facilities, but may provide breakfast service for guests only.

Bed and breakfast inn means a use that provides guestrooms in an operator- or owner-occupied residential unit that is primarily used for inn activities. Bed and breakfast inns are operated as a commercial enterprise. They may provide meals for guests and the general public. Accommodations for overnight stays are limited to ten guestrooms.

Beneficial use determination means a determination made by the City Commission in accordance with Section 2.4.23, Beneficial use determination.

Berm means an elongated earthen mound typically designed or constructed on a site to separate, screen, or buffer adjacent land uses.

Birth center means any facility, institution, or place, which is not an ambulatory surgical center or a hospital or in a hospital, in which births are planned to occur away from the mother's usual residence following a normal, uncomplicated, low-risk pregnancy.

Block means a tier or group of lots existing with well-defined and fixed boundaries, usually being an area surrounded by streets or other physical barriers and having an assigned number, letter or other name through which it may be identified.

Blood collection facilities means a facility where blood or related materials are either withdrawn or collected from patients or assembled after being withdrawn or collected elsewhere from patients for subsequent delivery to a clinical laboratory for examination. A collection station is a facility which is maintained at a separate physical location not on the grounds or premises of the main licensed laboratory or institution which performs the testing.

Board of Adjustment means the Board of Adjustment, as herein provided for within these LDRs.

Boat and marine rental and sales means premises on which new or used boats and other marine vessels are displayed for sale, lease or rental.

Bollard means one of a series of posts preventing vehicles from entering an area.

Bosque means a formal landscape architectural design element in which a group of trees are planted in a geometric grid pattern and transected by walks or pedestrian paths. Typically, the trees are of one size and species.

Botanical garden means a garden having documented collections of living plants for the purposes of scientific research, conservation, display or education.

Buffer means a strip of land with natural or planted vegetation located between a structure and a side or rear property line intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

Building means any structure, either temporary or permanent, having a roof impervious to weather, and used or built for the enclosure or shelter of persons, animals, vehicles, goods, merchandise, equipment, materials, or property of any kind. This definition shall include tents, dining cars, trailers, mobile homes, sheds, garages, carports, animal kennels, storerooms or vehicles serving in any way the function of a building as described herein. This definition of a building does not include screened enclosures not having a roof impervious to weather.

Building area means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on the lot.

Building footprint means the area of a lot or a site included within the surrounding exterior walls of a building or portion of a building, exclusive of courtyards.

Building front yard setback line. See Section 5.2.2(A)(2).

Building line. See Section 5.2.2(A)(1).

Build-to line means an alignment which is established a certain distance from the front property line, front building line, or lot frontage to a line on an individual property along which the front building facade edge shall be built.

Caliper means a horticultural method of measuring the diameter of a tree trunk for the purpose of determining size. The caliper of the trunk is measured six inches above the ground for trees up to and including four inches in diameter, 12 inches above the ground for trees greater than four inches up to 12 inches in diameter, and at breast height (4.5 feet) for trees greater than 12 inches in diameter.

Canopy means:

- (1) With reference to trees, the upper portion of a tree consisting of limbs, branches and leaves.
- (2) With reference to structures, a roof-like cover, including an awning, that projects from the wall of a building over a door, entrance or window; or a freestanding or projecting cover above an outdoor service area, such as at a gasoline service station.

Capital improvements means physical assets constructed or purchased to provide, improve, or replace a public facility and which are large scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multiyear financing. Physical assets which have been identified as existing or projected needs in the Comprehensive Plan shall be considered capital improvements.

Capital improvements element (CIE) means the capital improvements element in the Comprehensive Plan, or its most recent amendment.

Capital improvements program (CIP) means the list of capital projects updated annually and adopted in the capital improvement element by the City Commission that is used to identify capital improvements that will contribute to the maintenance of level of service standards adopted in the capital improvements element for each public facility.

Carrier means, for the purposes of Section 4.3.2(l)(1), a company licensed by the Federal Communications Commission (FCC) that provides wireless services. A tower builder or owner is not a carrier unless also licensed by the FCC to provide personal wireless services.

Carwash and auto detail means an establishment providing the exterior washing of vehicles where vehicles are manually driven or pulled by a conveyor through a system of rollers and/or brushes. Interior cleaning and/or drying may be conducted manually by vehicle operator or on-site attendants. Automatic carwash establishments are further defined under the two following categories:

1. *Full-service*. An establishment featuring a conveyor system to move vehicles through the wash cycle. This type of carwash may include sales of gasoline, oil and other vehicle related merchandise. On-site attendants are required. Building size is limited by lot size, parking requirements, building and landscape setbacks or other site characteristics.
2. *Self-service*. An establishment featuring a carwash system where vehicles are manually driven through a wash cycle, or washed manually using a wand or other hose. Incidental interior cleaning and exterior drying are performed by vehicle operator. This type of carwash does not have an on-site attendant and there is no gasoline, oil or other merchandise for sale.

Cemetery, columbarium, and mausoleum means uses intended for the burial of the dead and dedicated for cemetery purposes. This use type may include a funeral home or mortuary or a mausoleum or columbarium (a structure or vault lined with recesses for cinerary urns), but does not include a crematory.

Central farm distribution hub for agricultural products means a place where farmers can deliver agricultural products for pick up by consumers or wholesalers, but not including a central place operated by a farm co-op where farmers can deliver products for pick up by consumers. The term "central farm product distribution hub" does not include such uses as a trucking operation, stockyard, auction house, slaughterhouse or other processing facility. See *Farm co-op*.

Certificate of appropriateness means a permit reviewed and approved, approved with conditions, or denied by the Planning and Zoning Board or the LDR Administrator in accordance with Section 2.4.6, Certificate of appropriateness.

Certificate of concurrency compliance means a permit reviewed and approved, approved with conditions, or denied by the LDR Administrator in accordance with Section 2.4.14, Certificate of concurrency compliance.

Certificate of LDR compliance means a permit reviewed and approved, approved with conditions, or denied by the LDR Administrator in accordance with Section 2.4.15, Certificate of LDR compliance.

Child day care center means a facility licensed by Alachua County to provide day care and/or educational services for six or more children under the age of five, other than members of the family. The term includes day nurseries, kindergartens, day care services, nursery school or preschool.

Circumference means the distance around the trunk surface of a tree.

City means the City of Alachua, Florida.

City Commission means the City Commission of Alachua, Florida.

Clear trunk means the distance between the top of the root ball along the vertical trunk or trunks of a tree to the point at which lateral branching or fronds begin.

Clear wood (gray wood) means the portion of the palm trunk which is mature hardwood measured from the top of the root ball to the base of green terminal growth or fronds.

Co-housing means a residential arrangement on the site of an active agriculture, horticulture or animal husbandry operation consisting of more than one individually owned dwelling unit and extensive common facilities, such as a large dining room, kitchen, lounges, meeting rooms, recreation areas, library, workshops, child care, laundry, greenhouse or other facilities for use by the organized group of residents living in the co-housing who participate in the planning, design, ongoing management and maintenance of the residential arrangement and in the routine activities of household living.

Cold storage plant means a building, structure, machinery, appurtenances, appliances and apparatus occupied and used in the business of freezing food products or storing frozen food products.

College or university means an institution other than a business/vocational school that provides full-time or part-time education beyond high school.

Commencement of construction means issuance of a building permit and commencement of infrastructure or building construction activities.

Commercial message means a sign, wording, logo or other representation that directly or indirectly names, advertises or calls attention to a business, product, service or other commercial activity.

Commercial recreation, indoor, a private indoor (entirely within enclosed structure) use providing for sport and recreation activities, which are operated or carried on primarily for financial gain. Examples of indoor commercial recreation uses include, but are not limited to, fitness centers, Yoga studios, Pilates studios, bowling alleys, dancehalls, skating rinks, indoor commercial swimming pools and racquet and tennis club facilities (indoor).

Commercial recreation, outdoor, a private outdoor use providing facilities for sport activities, which is operated or carried on primarily for financial gain, outdoors. Examples of outdoor commercial recreation uses include, but are not limited to, privately owned golf driving ranges, miniature golf facilities, outdoor commercial tourist attractions, and privately owned active sports facilities such as ballfields and basketball courts, and racquet and tennis club facilities (outdoor).

Community center means a building to be used as a place of meeting, recreation, or social activity and not operated for profit.

Community garden means a private or public facility for cultivation of fruits, flowers, vegetables or ornamental plants by more than one person.

Community residential home (6 or fewer residents) means a dwelling unit licensed to serve residents who are clients of the Florida Department of Elderly Affairs, the Florida Agency for Persons with Disabilities, the Florida Department of Juvenile Justice, the Florida Department of Children and Family Services or licensed by the Florida Agency for Health Care Administration, which provides a living environment for six or fewer unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

Community residential home (7 to 14 residents) means a dwelling unit licensed to serve clients of the residents who are clients of the Florida Department of Elderly Affairs, the Florida Agency for Persons with Disabilities, the Florida Department of Juvenile Justice, the Florida Department of Children and Family Services or licensed by the Florida Agency for Health Care Administration, which provides a living environment for seven to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

Community service. See Section 4.2.3(A).

Completely enclosed building means a building separated on all sides from adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance and exit doors.

Compost means solid waste which has undergone biological decomposition of organic matter, and has been disinfected using composting or similar technologies, and has been stabilized to a degree which is potentially beneficial to plant growth and which is used or sold for use as a soil amendment, artificial top soil, growing medium amendment or other similar uses.

Composting means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled and used in an environmentally acceptable manner. The presence of anaerobic zones within the composting material will not cause the process to be classified as other than composting.

Composting facility means a solid waste management facility where solid waste is processed using composting technology. Processing may include physical turning, windrowing, aeration or other mechanical handling of organic matter.

Comprehensive plan means the Comprehensive Plan adopted by the City Commission in accordance with the Community Planning Act (F.S. § 163.2511 et seq.), as amended.

Concurrency management system means the procedures and/or process that the City will utilize to ensure that development orders and permits are not issued unless facilities will be available concurrent with the impacts of development.

Concurrent means that the public facilities necessary to maintain the level of service standards adopted in the Comprehensive Plan and these LDRs will be available when the impacts of development occur on the public facilities affected by the development.

Cone of influence means, for the purposes of Section 6.9.7, Potable water wellfield protection standards, an area around one or more major water wells, the boundary of which is based on groundwater travel or drawdown depth.

Conference and training centers. See Section 4.2.5(B).

Conference center means a facility designed to accommodate less than 500 persons and used for conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premises consumption.

Connectivity means the relative degree of connection between streets, sidewalks or other means of travel.

Conservation area means the portion of a conservation subdivision that is designated for permanent protection. The conservation area is typically composed of primary conservation areas, secondary conservation areas, and any additional open space set-asides.

Conservation easement means a nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; ensuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Conservation subdivision means a subdivision of land for single-family residential dwelling units that reduces the lot area of individual lots in favor of a larger unified open space set-aside area that is owned in common and located to preserve environmental, agricultural or other sensitive resources found on the site.

Construction, actual, means the placing of substantial construction materials in permanent position and fastened in a permanent manner; except that where demolition, excavation, or removal of an existing structure has been substantially begun preparatory to new construction, such excavation, demolition or removal shall be deemed to be actual construction, provided that work shall be continuously carried on until the completion of the new construction involved. The term "actual construction" shall include only work begun under a valid building permit.

Construction documents has the meaning as defined in Section 202 of the Florida Building Code, as amended.

Construction plans means plans prepared as part of the subdivision plat approval process which depict the location of lots and public facilities, in accordance with Section 2.4.10, Subdivision.

Contractor, building, heating, plumbing or electrical, means the offices for building, heating, plumbing or electrical contractors, and related storage facilities.

Convenience store means a general retail store of limited size (generally no more than 3,000 square feet in area) that sells goods and services and that may include the sale of ready-to-eat food products (not intended for on-premises consumption), a limited range of groceries, and sundries. The sales and distribution of gasoline and related products is not allowed at a convenience store.

Convention center means a facility designed to accommodate 500 or more persons and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions including temporary outdoor displays, and food and beverage preparation and service for on-premises consumption.

Cornice means any horizontal member, structural or nonstructural, that projects outward from the exterior wall of a building at that building's roofline. The term "cornices" include eaves and roof overhangs.

Cottage home means a principal residential dwelling located within a cottage neighborhood and consistent with the standards in [Article 4](#) of these LDRs.

Cottage neighborhood means a collection of cottage homes clustered around by common green space.

Country club means land and buildings associated with indoor or outdoor recreation/entertainment use categories and may include a clubhouse, restaurant, swimming pool, tennis courts, professional shop, and similar recreational or service uses.

County means Alachua County, Florida.

County Health Department means the Health Department of Alachua County, Florida.

Crematory means a facility containing furnaces for the reduction of dead bodies to ashes by fire.

Critical root zone means an underground area extending laterally in all four cardinal directions from the base of a tree's trunk to a distance typically 1½ times larger than the perimeter of the tree's dripline.

Cultural facility means establishments such as museums, art galleries, botanical and zoological gardens of an historic, educational or cultural interest, which are not operated commercially.

Curb break means a driveway or any other point of access or opening for vehicles onto a public street.

Custom operators means an enterprise in which a contractor or other operator agrees to perform all or some machine operations, providing equipment and labor, for production and related activities on agricultural sites in exchange for a payment or a payment along with a percentage of profits. Field operations performed by a custom operator may include field preparation, planting, cultivating, harvesting, tilling, bush hogging, crop storage, hauling and fencing.

Day care. See Section 4.2.3(B).

Day care home (up to and including 6 persons) means a dwelling in which a permanent occupant provides for the care of up to six children or adults. Those receiving care are not all related to the occupant or to each other by blood or marriage and are not the legal wards or foster children of the attendant adults. Those receiving care and who are not dependents of the occupant do not reside on the site.

De minimis impact means an impact of not more than ten average daily trips on the affected road from an existing parcel of record, contiguous commonly-held parcels, or a development proposal unless the impact exceeds the adopted level of service of a designated hurricane evacuation route.

Deed-restricted affordable housing means affordable housing that is subject to a deed restriction or other covenant requiring that it be sold only to persons in households that qualify as low-income or very low-income households.

Density, gross residential. See Section 5.2.4(A)(1).

Density, net residential. See Section 5.2.4(A)(2).

Department or discount store means a business that is conducted under a single owner's name in which a variety of unrelated merchandise and services are housed and are exhibited and sold directly to the consumer for whom the goods and services are furnished.

Design flood has the meaning as defined in Section 202, Florida Building Code, as amended.

Design flood elevation has the meaning as defined in Section 202, Florida Building Code, as amended.

Developer means any person undertaking any development as defined in F.S. §§ 163.3164 and 380.04.

Developer agreement means an agreement by a developer with the City that clearly establishes the developer's responsibility regarding project phasing, the provision of public and private facilities, and improvements and any other mutually agreed to terms and requirements.

Development has the meaning as defined in F.S. §§ 163.3164 and 380.04, as amended; provided, however, for the purposes of Section 6.9.4, Floodprone area standards, means 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.

Development agreement means an agreement entered into between a local government and a person associated with the development of land, including, but not limited to, development agreements in accordance with the Florida Local Government Development Agreement Act (F.S. 163.3220 et seq.), or an agreement on a development order in accordance with F.S. ch. 380.

Development area means as used in Section 7.9, Conservation subdivision, the portion of land in a conservation subdivision designated for clearing, grading, ingress, egress, wells, septic systems, utilities and other forms of development.

Development order means any order approving, approving with conditions, or disapproving a development permit.

Development order, final, means, for the purposes of Section 2.4.14, Certificate of concurrency compliance, the final approval for a site plan, minor subdivision plat, final plat for subdivision, or final PD plan.

Development order, preliminary, means, for the purposes of Section 2.4.14, Certificate of concurrency compliance, the approval for a site-specific amendment to the Official Zoning Atlas, planned development master plan, special exception permit, certificate of appropriateness, variance permit, administrative adjustment, major subdivision preliminary plats or special permit.

Development permit includes any building permit, subdivision approval, site-specific amendment to the Official Zoning Atlas, special exception permit, certificate of appropriateness, variance permit, site plan, special permit, temporary use permit, sign permit, special event permit, tree removal permit, certificate of concurrency, certificate of LDR compliance, mobile home move-on permit, wellfield exemption permit, beneficial use determination, or any other official action of the City permitting the development

of land.

Diameter at breast height (DBH) means the measurement of the diameter of a tree trunk taken at a height of 4.5 feet above the natural ground line.

Direct market business, for the sale of products produced on site means a commercial enterprise in which agriculture products produced on a site are marketed and sold directly to consumers without an intermediate wholesaler or distributor, other than a farm co-op organization. Direct market business, including, but not limited to, pick-your-own (PYO) operations, and operations in which delivery of products is made directly to consumers, such as farm-share arrangements under which periodic delivery of farm products is made for a subscription fee.

Dispensing organization means an organization that meets the requirements of F.S. § 381.986(5)(b)1., including its contractual agents, which has been authorized by the State of Florida to cultivate, process and dispense low-THC cannabis.

Display publicly means the act of exposing, placing, posting, exhibiting or in any fashion displaying in any location, whether public or private, an item in such a manner that it may be readily seen and its content or character distinguished by normal unaided vision viewing it from a street, highway or public sidewalk, or from any portion of the premises where items and material other than sexually oriented media are on display to the public.

Disturbed land/ground means any land where the original natural vegetation has been removed, displaced or raked.

Dormitory means a building used principally to provide rooms for sleeping accommodations at an educational, public or religious institution; a common kitchen, sanitary and social gathering rooms may also be provided.

Drainage basin means the area defined by topographic boundaries which contributes stormwater to a drainage system, estuarine waters or oceanic waters, including all areas artificially added to the basin.

Drainage detention structure means a structure that collects and temporarily stores stormwater for the purpose of treatment through physical, chemical, or biological processes with subsequent gradual release of the stormwater.

Drainage facilities means a system of manmade structures designed to collect, convey, hold, divert or discharge stormwater, including, but not limited to, stormwater sewers, canals, detention structures and retention structures.

Drainage retention structure means a structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.

Dripline means the ground area surrounding the trunk of a tree that is described by the vertical plane enclosing the outermost branches.

Drive-through or drive-in means an establishment that by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, or obtain goods while remaining in their automobile.

Drug and alcohol treatment facility means an inpatient facility which provides care for persons with drug and/or alcohol dependency problems and which may include outpatient follow-up care to the facility's patients.

Drug store or pharmacy means a freestanding establishment that is engaged in the retail sale of prescription drugs, nonprescription medicines, cosmetics and related supplies.

Dwelling means a single unit providing complete independent living facilities, including areas for cooking and sanitation for one family.

Dwelling, accessory, means a second dwelling unit, either within or added to an existing single-family detached dwelling, or in a separate accessory structure on the same lot as the single-family detached dwelling, for use as a complete independent living unit with provision for cooking, eating, sanitation and sleeping.

Dwelling, live/work, means a structure or portion of a structure combining a residential living space with an integrated work space principally used by one or more of the residents.

Dwelling, manufactured home, means a structure building on an integral chassis designed to be used as a dwelling unit when connected to the required utilities, fabricated in an off-site manufacturing facility after June 15, 1976, in one or more sections, which includes the plumbing, heating, air conditioning and electrical systems contained therein, with each section bearing the HUD Code Seal certifying compliance with the Federal Manufactured Home Construction and Safety Standards Act, designed to be transported for installation or assembly at the building site, also known as a "HUD-Code Home." This definition does not include recreational vehicles, mobile home dwellings or modular home dwellings; provided however, for the purposes of Section 6.9.4, Floodprone area standards, has the meaning as defined in Chapter 15C-1.0101, Florida Administrative Code.

Dwelling, mobile home, means a structure built on an integral chassis and designed to be used as a dwelling unit when connected to the required utilities, fabricated in an off-site manufacturing facility before June 15, 1976, in one or more sections, designed to be transported for installation or assembly at the building site. Sections do not carry the HUD Code Seal. This definition does not include recreational vehicles, manufactured homes or modular homes.

Dwelling, multiple-family, means, for the purposes of these LDRs, a structure containing five or more individual dwelling units on a single lot, with the units often stacked one above the other in a vertical configuration, sharing common vertical walls and/or horizontal floors and ceilings. Housing for the aged, which meets this definition and does not provide for routine nursing and/or medical care, shall be construed to be a multiple-family dwelling.

Dwelling, single-family attached, means two or more single-family dwelling units, each with its own outside entrance, which are joined together by a common party wall or connecting permanent structures such as breezeways, carports or garages, and are on adjoining individual lots.

Dwelling, single-family detached, means a residential building containing not more than one dwelling unit to be occupied by one family, not physically attached to any other principal structure. For regulatory purposes, this term does not include mobile homes, recreational vehicles or other forms of temporary or portable housing. Manufactured buildings constructed for use as single-family dwelling units (manufactured home dwellings) are treated similar to single-family detached dwellings.

Dwelling, townhouse, means a type of multifamily dwelling, in which five or more individual dwelling units on a single lot are attached by one or more vertical party walls, with the habitable spaces of different dwelling units arranged on a side-by-side rather than a stacked configuration, and each individual unit being two stories, or more. Each individual townhouse dwelling unit has its own front and rear access to the outside.

Dwelling, two- to four-family, means a residential building containing two, three or four individual dwelling units located on a single lot.

Dwelling, upper-story, means a dwelling unit located on the second floor or higher of an office, retail or other commercial building.

Easement means a grant by the landowner to persons for the right to use an identifiable piece of land for specified purposes, such as for access or utilities.

Eating establishments. See Section 4.2.5(A).

Educational facilities. See Section 4.2.3(C).

Electric motor repair means an establishment that repairs electric motors for compensation.

Electronic message board means any sign that uses changing lights or electronic or digital display to form a changing sign message wherein the message or sequence of messages and the rate of change can be modified by electronic processes.

Encroachment means, for the purposes of Section 6.9.4, Floodprone area standards, 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.

Engineer means a professional engineer registered to practice engineering by the State of Florida who is in good standing with the Florida Department of Business and Professional Regulation.

Entertainment establishment means indoor continuous entertainment activities such as game arcades, video and pinball parlors, pool halls, indoor firing ranges, cinemas, concert halls and theaters.

Equestrian facility means a commercial facility for the keeping of horses, having more than 20 horses for boarding and three or more active riding instructors.

Existing building or existing structure means, for the purposes of Section 6.9.4, Floodprone area standards, any buildings and structures for which the "start of construction" commenced before February 21, 1994.

Existing deficiency means a deficiency in a public facility caused when the existing and reserved demand (from approved development through the issuance of a certificate of concurrency compliance) exceeds the capacity of said facility at the adopted LOS standards.

Existing manufactured home park or subdivision means, for the purposes of Section 6.9.4, Floodprone area standards, 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) was completed before February 21, 1994.

Expansion to an existing manufactured home park or subdivision means, for the purposes of Section 6.9.4, Floodprone area standards, 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).

FAA means the Federal Aviation Administration.

Fairgrounds means a parcel or tract of land wherein buildings, structures and land are used for County fairs, exhibitions and shows, and can include, but is not limited to, agriculture related office buildings, animal shows and judging, carnivals, community meeting or recreational buildings and uses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, and theaters. Fairgrounds do not include racetracks or motorized contests of speed.

Fair market value means the monetary price that a parcel of land, portion of land, improvement on land, or other commodity will bring in a competitive and open market under all conditions of a fair sale, the buyer and seller each prudently knowledgeable, and assuming the price is not affected by undue stimulus.

Family means any one of the following:

- (a) One or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, living together in a dwelling unit;
- (b) A group of not more than five persons not related by blood, marriage, adoption or legal guardianship (including foster children) living together in a dwelling unit; or
- (c) Two unrelated persons and their minor children living together in a dwelling unit.

Farm co-op means a facility used by an organization of farm producers for co-operative technical and marketing assistance, which may include a central market place where farmers can deliver products for pick up by consumers, but not a wholesale distribution center.

Farm machinery repair means a commercial enterprise for the repair of equipment normally or routinely used on farms and gardens, and related parts, tools and accessories, but not of nonfarm equipment or materials.

Farm machinery sales, rental and service means an establishment for the sale, rental and/or service of equipment normally or routinely used on farms and in gardens, and related parts, tools and accessories, but not nonfarm equipment or materials.

Farm market means a principal use which includes the sale of horticulture or agriculture products, including nursery stock, perennial, annuals, bulbs, mulch, compost, dried flowers, Christmas trees and greens, fresh produce, honey, cider and similar agriculture products. A minimum of 25 percent of the products sold must be agricultural products produced on site.

Farm produce stand means a structure or land used for the sale, by the owner or the owner's family or tenant, of agriculture or horticulture produce principally produced on the farm or agriculture operation on which the farm produce stand is located. The term "farm produce stand" may include produce grown on other farms in the vicinity and accessory products, which are clearly a secondary use of the premises and do not change the character of the farm produce stand.

FCC means the Federal Communications Commission.

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

Feedlot (for ongoing, on-site animal husbandry activities) means an enclosure (including a lot, yard, building, or corral) in which animals fed for slaughter are confined, that is used for more than 30 days in a one-year period, with or without an area for the raising of crops, forage or other vegetation and upon which animals fed for slaughter are allowed to graze or feed. The term "feedlot" does not include any area where animals are held for slaughter by a processor for a period of 30 days or less.

Fence means a structure used to delineate a boundary or act as a barrier or means of protection, confinement or screening.

Fill means soil materials deposited for the purpose of raising the level of natural land surface.

Financial institution means an establishment that provides retail banking services, mortgage lending or similar financial services to individuals and businesses. The term "financial institutions" include those establishments engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers. Financial institutions may also provide automated teller machines (ATM) services, located within a fully enclosed space or building, or along an exterior building wall intended to serve walkup customers only. Financial institutions may include drive-through facilities.

Finished floor elevation means the elevation (above mean sea level) of the surface of the lowest habitable floor in a structure after the structure has been completed.

Fire and EMS means facilities for the provision of local rapid response emergency services such as firefighting and mobile medical emergency services, including areas for the storage and maintenance of emergency vehicles, and equipment and facilities for the housing and feeding of emergency personnel while on duty.

Flag means a piece of cloth or similar material bearing a distinctive design and emblem or symbol representing a County, State, a political subdivision of a State or another organization.

Flag lot means a lot which abuts or gains access to a street through a narrow portion which does not meet the minimum frontage or lot width requirements for the zone district where it is located.

Flood means the unusual and rapid accumulation or runoff of surface water of any source.

Flood damage-resistant materials has the meaning as defined in Section 202, Florida Building Code, as amended.

Flood hazard area has the meaning as defined in Section 202, Florida Building Code, as amended.

Flood insurance rate map (FIRM) means, for the purposes of Section 6.9.4, Floodprone area standards, the official map issued and updated from time to time by FEMA where both the areas of special flood hazard and the risk premium zones applicable to the City have been delineated.

Flood Insurance Study means, for the purposes of Section 6.9.4, Floodprone area standards, the official report provided by FEMA. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood for the City.

Floodplain Administrator means, for the purposes of Section 6.9.4, Floodprone area standards, the office or position designated and charged with the administration and enforcement of Section 6.9.4, (may also be referred to as the Floodplain Manager).

Floodplain development permit or approval means, for the purposes of Section 6.9.4, Floodprone area standards, an official document or certificate, including but not limited to a building permit or a Certificate of LDR Compliance, issued by the City, 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 Section 6.9.4.

Floodplain development variance means a grant of relief from the requirements of Section 6.9.4, Floodprone area standards, or the flood resistant construction requirements of the Florida Building Code, as amended, which permits construction in a manner that would not otherwise be permitted by Section 6.9.4, or the Florida Building Code, as amended.

Floodway means, for the purposes of Section 6.9.4, Floodprone area standards, the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway encroachment analysis means, for the purposes of Section 6.9.4, Floodprone area standards, an engineering analysis of the impact that a proposed encroachment into a floodway is expected to have on the floodway boundaries and base flood elevations; the evaluation shall be prepared by a qualified Florida licensed engineer using standard engineering methods and models.

Floor area. See Section 5.2.4(A)(4).

Floor area ratio (FAR). See Section 5.2.4(A)(5).

Florida Building Code means those 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; which are incorporated into Florida Statutes, as amended.

Florida Friendly Landscaping has the meaning as defined in F.S. § 373.185, as amended.

Floridan Aquifer System means the thick carbonate sequence that includes all or part of the Paleocene to early Miocene Series and functions regionally as a water-yielding hydraulic unit. Where overlaid by either the intermediate aquifer system or the intermediate confining unit, the Florida Aquifer contains water under confined conditions. Where overlaid directly by the surficial aquifer system, the Florida Aquifer may or may not contain water under confined conditions, depending on the extent of low permeability materials in the surficial aquifer system. Where the carbonate rocks crop out, the Floridan generally contains water under unconfined conditions near the top of the aquifer system, but, because of vertical variations in permeability, deeper zones may contain water under confined conditions. The Florida Aquifer is the deepest part of the active groundwater flow system. The top of the aquifer system generally coincides with the absence of significant thicknesses of clastics from the section and with the top of the vertically persistent permeable carbonate section. For the most part, the top of the aquifer system coincides with the top of the Suwannee Limestone, where present, or the top of the Ocala Group. Where these are missing, the Avon Park Limestone or permeable carbonate beds of the Hawthorn Formation form the top of the aquifer system. The base of the aquifer system coincides with the appearance of the regionally persistent sequence of anhydrite beds that lie near the top of the Cedar Key Limestone.

Footcandle means the amount of light that falls onto a surface as emitted by an exterior lighting device.

Front facade or front elevation means the exterior walls of a structure which are immediately adjacent to the street which the structure fronts.

Fuel oil distributor means an establishment that distributes fuel oil for compensation.

Full cutoff lens means an artificial outdoor lighting fixture designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

Functionally dependent use means, for the purposes of Section 6.9.4, Floodprone area standards, 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.

Funeral home means an establishment which provides human funeral services, including embalming and memorial services. Crematories are accessory uses to a funeral home.

Gasoline sales, full-service, mini-service, and self-service, means an establishment providing sales of gasoline and related vehicle fuel, at retail. This may be done either through a full-service automobile service station (that may also provide repair services such as lubrication, oil and tire changes, and engine repair, but not vehicle bodywork or painting) or a self-service establishment (where the customer is responsible for pumping the gasoline), or a combination of the two. Convenience goods may also be offered for sale, such as ready-to-eat food products, prepackaged food items, tobacco, periodicals, a limited range of groceries and sundries.

General amendment to the Official Zoning Atlas means a decision made by the City Council regarding the Official Zoning Atlas in accordance with Section 2.4.1, Text amendment and general amendments to the Official Zoning Atlas.

General industrial service means establishments engaged in the repair or servicing of agriculture, industrial, business, or consumer machinery, equipment, products or byproducts. Firms that provide these services do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking and storage.

General media store means:

- (1) A general term for the retail sale or rental of books and other media, including stores that may have some sexually oriented media, but excluding those stores that are classified as sexually oriented media stores. A store that sells or rents media in which less than ten percent of the numbers of items in inventory are sexually explicit media and in which less than ten percent of the retail floor area is devoted to sexually explicit media shall be considered a general media store unless it is a sex shop. A general media store meeting these inventory and floor area limits shall not be considered a sexually oriented business.
- (2) A general media store which devotes more than ten percent of its floor area or ten percent of the number of items in inventory to sexually explicit media, but devotes less than 30 percent of its floor area or less than 30 percent of the number of items in inventory to sexually explicit media shall be treated for the purposes of these LDRs as a general media store and not as a sexually oriented media store or other sexually oriented business, provided that it continuously meets the following conditions:
 - 1.

All sexually explicit media is maintained in a room that is separated from other media by an opaque wall that extends to the ceiling or eight feet above the floor, whichever is less;

2. Access to the room containing the sexually explicit media shall be through an opaque, solid door;
3. The room containing sexually explicit media shall be posted with a notice indicating that only persons 18 years of age or older are allowed in the room;
4. Access to the room is physically limited to adults through control of access by an employee of the store, through the use of an access release located at least 66 inches off the floor, or through constant monitoring of the room by an employee on duty, through electronic means or through a window or mirror providing visibility into the room from the manager's or cashier's work station; and
5. If either the 30 percent threshold of gross floor area or number of items in inventory is exceeded, then the use shall be classified as a sexually oriented media store and considered a sexually oriented business.

Glazing means the portion of an exterior building surface occupied by glass or windows.

Golf course, private or public, means a tract of land laid out with at least nine holes for playing the game of golf and improved with tees, greens, fairways and hazards. The term "public or private golf course" may include a clubhouse and shelters.

Golf driving range means a limited area on which golfers do not walk, but hit golf balls from central driving tees. A golf driving range may contain outdoor lighting. A golf driving range may have, as an accessory use, a putting or chipping green, miniature golf course, baseball batting cages, a refreshment stand and/or equipment rental of items pertaining to golf and baseball.

Good cause means impediments to submission of a final development plan or delays in securing other permits in a timely manner. The term "good cause" does not include adverse market conditions, delays in securing financing, or self-imposed hardships resulting from the actions or inaction of the developer.

Government facilities. See Section 4.2.3(D).

Government maintenance, storage and distribution facility means a facility housing government shops, maintenance and repair centers and equipment storage yards.

Government office means an office of a governmental agency that provides administrative and/or direct services to the public, such as, but not limited to, employment offices, public assistance offices, or motor vehicle licensing and registration services.

Grade. See Section 5.2.3(A)(3).

Gross public floor area means, for the purposes of Section 4.3.4(I), the total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind the counter areas, storage areas visible from other areas, restrooms (whether or not labeled "public"), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways and entryways serving such areas.

Ground cover means a low-growing plant that, by the nature of its growth characteristics, completely covers the ground, does not usually exceed two feet in height, and renders the soil surface stable against accelerated erosion.

Ground or roof mounted solar energy system means a device or design feature meant to provide for the collection, storage, and distribution of solar energy for heating, cooling, electricity generation and storage, or water heating.

Groundwater means water in saturated zones or stratum beneath the surface of land or water, whether or not it is flowing through known and definite channels.

Group home means a facility licensed to serve residents who are clients of the Florida Department of Elderly Affairs, the Florida Agency for Persons with Disabilities, the Florida Department of Juvenile Justice, the Florida Department of Children and Family Services or licensed by the Florida Agency for Health Care Administration that provides a living environment for 15 or more unrelated residents, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional and social needs of the residents. (See also *Community residential home*.)

Group living. See Section 4.2.2(B).

Hard core material means media characterized by sexual activity that includes one or more of the following: erect male organ; contact of the mouth of one person with the genitals of another; penetration with a finger or male organ into any orifice in another person; open female labia; penetration of a sex toy into an orifice; male ejaculation; or the aftermath of male ejaculation.

Hazardous waste means solid waste, or a combination of solid wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment.

Hazardous waste collection site means an establishment for the collection and/or transfer of hazardous waste.

Health care facilities. See Section 4.2.3(E).

Heavy equipment sales, rental or repair means an establishment engaged in the display, sale, leasing or rental of heavy equipment of 12,000 or more pounds gross vehicular weight (GVW).

Hedge means a row of evenly spaced shrubs planted to form a continuous, unbroken visual screen.

Height, building. See Section 5.2.3(A)(1).

Helicopter landing facilities means an area, either at ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters and which may include auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

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

Historic Overlay District means an area of land in the City designated as an Historic Overlay (HO) District by ordinance of the City Commission, in accordance with Section 2.4.2, Site specific amendment to the Official Zoning Atlas (rezone), and Section 3.7.2(A), Historic Overlay (HO) District. It is an area within the City which constitutes an outstanding or distinctive area worthy of protection and enhancement under these LDRs based on the presence, within definable geographic boundaries, of one or more lands, structures, or sites of historic or cultural value.

Historic structure means, for the purposes of Section 6.9.4, Floodprone area standards, 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, as amended.

Home occupation means a business activity conducted entirely in a dwelling unit, in accordance with the home occupation criteria in Section 4.4.4(C) of these LDRs.

Homeowners' association or property owners' association means a private nonprofit association which is organized by the developer of a development in which individual owners share common interests in open space, easements and/or facilities and are in charge of preserving, managing and maintaining the common property, and enforces improvements or other certain covenants and restrictions.

Horticulture, general use category, means the active and ongoing cultivation and production of orchard, garden or nursery crops on a small or large scale, including the production of orchards, field grown crops, specialty crops, flowers, fruit, grapes, market gardening, nursery stock, nuts, ornamental plants, sod, vegetables and similar horticultural uses; and the cultivation of such produce by means of biotechnical or genetic engineering techniques. The term "horticulture" does not include preparatory functions such as grading or creation of planting beds through stockpiling of dirt or other means when such preparations do not result in an active and ongoing horticulture activity within 30 days. See also Section 4.2.4(C).

Hospital means an establishment providing physical or mental health services with overnight accommodations for the sick and injured.

Hotel or motel means a building or a group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupancy by persons on an overnight basis, not including bed and breakfast establishments or a roominghouse. The terms "hotel" and "motel" are to be considered synonymous uses.

Household living. See Section 4.2.2(A).

Housing product means a type of residential dwelling unit (e.g., townhouse, patio home, single-family detached, etc.) or a different model or format of a residential type within a single development.

Hue means the visible color emitted from an artificial source of exterior lighting.

Human scale means the proportional relationship of a particular building, structure or streetscape element to the human form and function.

Human-scale design means, as used in Section 3.6.3(B)(5)(f), the utilization of buildings, building features and exterior materials that are organized into discreet units that are easily distinguished from surrounding features, sized to be easily perceived by the human eye, and of a small scale so as to create a proportional relationship with pedestrians using nearby areas.

Ice cream shop means an eating establishment primarily intended for the on- and off-site consumption of ice cream and other similar foods.

Imminent deficiency means an approaching deficiency in a public facility caused when the existing demand and capacity reserved for approved development through the issuance of a certificate of concurrency compliance reaches 95 percent of the capacity of said facility at the adopted LOS standards.

Impervious means the condition of being impenetrable by water.

Impervious surface area means a surface that is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventional surfaced streets, roofs, sidewalks, parking lots and other similar structures.

Imperviousness means the degree to which a site is impervious.

Improvements. See *Private improvements* or *Public improvements*.

Incinerator means a facility that burns refuse at high temperatures to reduce the volume of waste. See also *Resource recovery plant*.

Industrial services. See Section 4.2.5(C).

Infill means the development or redevelopment of land that has been bypassed, remained vacant, and/or is underused as a result of the continuing urban development process. Generally, the areas and/or sites are not particularly of prime quality, however they are usually served by or are readily accessible to the infrastructure (services and facilities) provided by the local government.

Institutions. See Section 4.2.3(F).

Internet café/simulated gambling establishment means a building, edifice, structure, or location, along with its grounds, in which simulated gambling devices are used, operated, or stored, including but not limited to game rooms, arcades, internet cafes, internet centers or sweepstakes redemption centers. The definition does not include any establishment that is expressly permitted by state law, including but not limited to an "arcade amusement center" as defined in F.S. § 546.10.

Interpretation means a decision made in writing by the LDR Administrator in accordance with the standards in Section 2.4.19, Interpretation by the LDR Administrator.

Irrigation means the method of supplying plant materials with water other than by natural rainfall.

Kennel means a facility where four or more dogs, cats or other animals over three months of age are kept, raised, sold, boarded, bred, shown, treated or groomed. Such a facility may have an indoor and outdoor component.

Kennel, indoor, means a facility where four or more dogs, cats, or other animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed. The facility shall be entirely indoors.

Land means the earth, water and air, above, below or on the surface, and includes any improvements or structures customarily regarded as land.

Land development regulations (LDRs) means the regulations adopted by the City to implement the Comprehensive Plan. The term "LDRs" include regulations related to the use of land, development and design standards, procedures for the review of development, subdivision, drainage and stormwater management, protection of environmentally sensitive areas, sign controls, standards for public facilities and services, on-site traffic flow and parking and any other regulations deemed appropriate by the City to implement the Comprehensive Plan.

Land disturbing activity means:

- (1) The use of the land in residential, industrial, educational, institutional or commercial development; or
- (2) Street construction and maintenance that results in a change in the natural cover or topography, and that may cause or contribute to sedimentation.

Land, parcel of. See *Parcel [of land]*.

Land spreading of wastes means the application or disposal of effluents or sludges on, above or into the surface of the ground through spray irrigation, land spreading or other methods.

Land use means the development that has occurred on the land, the development that is proposed by a developer on the land, or the use that is permitted or permissible on the land under the Comprehensive Plan, these LDRs, or an amendment thereto.

Landfill means a solid waste disposal facility, which is an area of land or an excavation where wastes are or have been placed for disposal, for which a permit, other than a general permit, is required by F.S. § 403.707. This term shall not include:

- (a) A land spreading site;
- (b) A surface impoundment;
- (c) An injection well defined under and subject to the provisions of Chapter 62-528, F.A.C.; or
- (d) A construction and demolition debris disposal site regulated by Rule 62-701.730, F.A.C.

Landscape means an expanse of natural scenery, such as lawns, trees, plants and other natural materials, such as rock and wood chips, and decorative features, including sculpture, patterned walks, fountains and pools.

Landscape architect means a professional, who is often certified, that analyzes, plans, designs, manages and/or serves as a steward of the natural and built environments.

Landscape services means an establishment engaged in the provision of landscape maintenance or installation services. Examples include lawn mowing; tree, shrub and hedge trimming; leaf blowing; landscape design; landscape installation and irrigation repair/installation.

Large retail establishment means a single business established engaged in retail sales activities and located in a stand-alone single tenant building larger than 20,000 square feet in size.

Laundromat means a facility where patrons wash, dry or dry clean clothing or other fabrics in machines operated by the patron.

Laundry, dry cleaning and carpet cleaning facilities means a facility used for cleaning fabrics, textiles, wearing apparel or articles of any sort by immersion and agitation, or by immersions only, in water or volatile solvents.

Laws means, for the purposes of Section 2.5, Development agreements, all ordinances, resolutions, regulations, Comprehensive Plans, land development regulations and rules adopted by a local government affecting the development of land.

LDR Administrator means the Land Development Regulation Administrator designated by the City Commission for the administration and enforcement of these LDRs.

Legible means, as related to Section 6.5, Signs, that a message can be comprehended by a person with eyesight adequate to obtain a current Florida driver's license standing in the public right-of-way or other location from which legibility is to be determined. Where such facts are material, it shall be presumed that the observation takes place in daylight hours, and that the person making the observation is standing and is between five feet, two inches and six feet tall.

Letter of map change (LOMC) means 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:

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.

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.

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 City's floodplain management regulations.

Conditional letter of map revision (CLOMR): A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a letter of map revision may be issued by FEMA to revise the effective FIRM.

Level of service means an indicator of the extent or degree of service provided by, or proposed to be provided by a facility based on and related to the operational characteristics of the facility. Level of service indicates the capacity per unit of demand for each public facility.

Library means a public facility for the use, but not sale, of literary, musical, artistic or reference materials.

Lien means a claim on the property of another as security against the payment of a just debt.

Light-duty truck, as defined in 40 C.F.R. 86.082-2, as amended, means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is:

1. Designed primarily for purposes of transportation of property or is a derivation of such a vehicle;
2. Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
3. Available with special features enabling off-street or off-highway operation and use.

Liquor store means an establishment licensed by the State exclusively for the retail sale of alcoholic beverages, excluding beer and wine, in original packages for consumption off the premises where sold.

Local planning agency means the entity designated by the City Commission, under the provisions of F.S. §§ 163.3161 through 163.3215.

Lot means a portion of a subdivision or any parcel of land intended as a unit for building development or for transfer of ownership or both. The term "lot" includes the terms "plot," "parcel," "tract" or "site" and may consist of:

1. A single lot of record;
2. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots of record; or
3. A parcel of land described by metes and bounds; provided, that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of these LDRs.

Lot area. See Section 5.2.1(A)(1).

Lot, corner. See Section 5.2.1(A)(6)(a).

Lot coverage. See Section 5.2.4(A)(3).

Lot depth. See Section 5.2.1(A)(4).

Lot frontage. See Section 5.2.1(A)(2).

Lot, interior. See Section 5.2.1(A)(6)(b).

Lot line. See Section 5.2.1(A)(3).

Lot of record means a lot which is part of a subdivision recorded in the office of the County Clerk, or a lot or parcel described by metes and bounds, the description of which has been recorded on or before February 22, 2005.

Lot, reversed frontage. See Section 5.2.1(A)(6)(d).

Lot, through. See Section 5.2.1(A)(6)(c).

Lot width. See Section 5.2.1(A)(5).

Low-income household means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the State, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the County in which the person or family resides, whichever is greater.

Low-THC cannabis means a plant of the genus Cannabis, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than ten percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization. The term does not include the possession, use, or administration of cannabis or cannabis derivative by burning or igniting and inhaling the smoke. See F.S. § 385.211.

Lowest floor, for the purposes of Section 6.9.4, Floodprone area standards, has the meaning as defined in Section 202, Florida Building Code, as amended.

Lumen means a unit of luminous flux. One footcandle is one lumen per square foot. Lumen output values shall be the initial lumen output ratings of a lamp.

Machine shop means an establishment where metal is cut and shaped by machine tools.

Manufactured home park or subdivision means, for the purposes of Section 6.9.4, Floodprone area standards, a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Manufacturing and production. See Section 4.2.5(D).

Manufacturing, heavy, means manufacturing uses that involve the generation outside the property of noise, odor, vibration or dust. Examples include, but are not limited to: manufacture or assembly of machinery, equipment, instruments, vehicles, appliances, communications equipment, computer or electronic equipment, precision items and other electrical items; the processing of food and related products; lumber mills, pulp and paper mills, and the manufacture of other wood products; and electric power generation plants. Specifically prohibited are rendering, petroleum refining, asphalt/concrete plants, and the manufacture of chemicals, fertilizers, paint and turpentine.

Manufacturing, light, means the mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor or vibration. Examples include, but are not limited to: production or repair of small machines or electronic parts and equipment; woodworking and cabinet building; publishing and lithography; computer design and development; research, development, testing facilities and laboratories; apparel production; sign making; assembly of prefabricated parts; manufacture of electric, electronic, or optical instruments or devices; manufacture and assembly of artificial limbs, dentures, hearing aids and surgical instruments; manufacture, processing, and packing of food products, cosmetics; and manufacturing of components, jewelry, clothing, trimming decorations and any similar item.

Marginal access street. See *Street, marginal access*.

Market value means, for the purposes of Section 6.9.4, Floodprone area standards, 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 Section 6.9.4. 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 building value as assessed by the Alachua County Property Appraiser's office, plus 20 percent of the tax assessment value.

Massage means touch, stroking, kneading, stretching, friction, percussion and vibration, and including holding, positioning, and causing movement of soft tissues and applying manual touch and pressure to the body.

Massage parlor means an establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, massage therapist or similar professional person licensed by the State. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

Massage therapist means a person licensed in accordance with F.S. ch. 480.

Massage therapy means the profession licensed in accordance with F.S. ch. 480.

Maximum extent practicable means that no feasible or practical alternative exists, as determined by City staff, and all possible efforts to comply with the regulation or minimize potential harmful or adverse impacts have been undertaken by an applicant. Economic considerations may be taken into account but shall not be the overriding factor determining maximum extent practicable.

Maximum service volume means the maximum capacity of a public facility based on the adopted LOS standard. For the purposes of roadway capacity, maximum service volume shall be determined by the latest Florida Department of Transportation (FDOT) Generalized Tables, a more detailed analysis such as FDOT's arterial planning software or the Highway Capacity Manual, subject to acceptance/approval by the LDR Administrator.

Media means anything printed or written, or any picture, drawing, photograph, motion picture, film, videotape or videotape production, or pictorial representation, or any electrical or electronic reproduction of anything that is or may be used as a means of communication; including, but not limited to, books, newspapers, magazines, movies, videos, sound recordings, CD-ROMs, other magnetic media, and undeveloped pictures.

Medical and dental clinics means a building or portion of a building containing offices and facilities for providing medical, dental, and psychiatric services for outpatients only.

Medical and dental labs means facilities and offices for performing diagnostic or therapeutic medical procedures of a nonsurgical nature.

Medical marijuana means low- THC cannabis permitted by the State of Florida for the treatment of medical conditions.

Medical marijuana cultivation means a location where the dispensing organization has been authorized by the State of Florida to cultivate medical marijuana. This includes research carried out by entities permitted by the State to carry out such research.

Medical marijuana dispensary means a location where the dispensing organization has been authorized by the State of Florida to dispense medical marijuana at retail to those individuals who have been added to the State's compassionate use registry by an authorized physician.

Medical marijuana processing means a location where the dispensing organization has been authorized by the State of Florida to process medical marijuana.

Medical radioisotope laboratory means a research facility specializing in the study and production of radioactive isotopes (radionuclides) to diagnose and treat disease. This facility shall generate less than or equal to ten milliwatts of power. This power can only be used for research purposes and cannot be distributed for electricity generation. All such research facilities shall be consistent with the Nuclear Regulatory Commission standards for medical research.

Microbrewery, means a facility that produces no more than 15,000 barrels per year of fermented malt beverages on site and may include a taproom for sale of beer for on premise consumption or in sealed containers for takeaway. The microbrewery may include outdoor seating areas.

Mixed-use means a building or an area containing a mix of uses which functionally integrate and interconnect with one another. Uses may include, but is not limited to, retail, professional services, restaurants and eating establishments, offices, and single and multifamily residential.

Mobile home move-on permit means a permit reviewed and approved, approved with conditions, or denied by the LDR Administrator in accordance with Section 2.4.18, Mobile home move-on permit.

Mobile home park means a parcel of land under single ownership or management which is operated as a business engaged in providing a place where manufactured or mobile homes are installed for nontransient living or sleeping purposes and where sites or lots are set aside or offered for lease or rent for use by manufactured homes or mobile homes for living or sleeping purposes, including any land, building, structure or facilities used by occupants of manufactured or mobile homes on such premises. Accessory uses to mobile home parks include owners' and managers' sleeping quarters, laundry facilities and facilities for parks and recreation.

Mobile home stand means a lot or parcel of ground designated for the accommodation of not more than one mobile home.

Mobile home subdivision means a residential subdivision where lots are offered for sale for use exclusively by mobile homes.

Motion picture arcade booth means any booth, cubicle, stall or compartment which is designed, constructed, or used to hold or seat customers and is used for presenting sexually explicit material, motion pictures, or viewing publications by any photographic, electronic, magnetic, digital, or other means or medium for observation by customers therein (also known as "booth," "arcade booth," "preview booth," "video arcade booth," "video viewing booth" and "peep show booth").

Mulch means organic material such as wood chips, pine straw or bark placed on the soil to reduce evaporation, prevent soil erosion, control weeds and enrich the soil.

Multipurpose trail means a trail designated for use by pedestrian, bicyclists, equestrians, or for other forms of nonmotorized transport. Such trails may be paved or surfaced with mulch, and are typically wider than public sidewalks. The term "multipurpose trail" is also known as a "recreational trail."

National Geodetic Vertical Datum (NGVD) means a vertical control, as corrected in 1988, used as a reference for establishing varying elevations within a floodplain.

Natural drainage features means the naturally occurring features of an area which accommodates the flow of stormwater, such as streams, rivers, lakes and wetlands.

Neighborhood recreation center means a facility providing recreation facilities and/or meeting rooms, that is typically oriented to addressing the recreational needs of the residents of a neighborhood or community area.

New construction means, for the purposes of Section 6.9.4, Floodprone area standards and the flood resistant construction requirements of the Florida Building Code, as amended, structures for which the "start of construction" commenced on or after February 21, 1994 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means, for the purposes of Section 6.9.4, Floodprone area standards, 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 February 21, 1994.

Newspaper of general circulation has the meaning as defined in F.S. § 163.3164.

Non-medical marijuana cultivation means a location, as defined in Chapter 64-4, F.A.C., where recreational or non-medical marijuana is cultivated.

Non-medical marijuana dispensary means a location, as defined in Chapter 64-4, F.A.C., where recreational or non-medical marijuana is distributed at retail.

Non-medical marijuana processing means a location, as defined in Chapter 64-4, F.A.C., where recreational or non-medical marijuana is processed.

Noncommercial message means any sign, wording, logo, or other representation that does not directly or indirectly name, advertise, or call attention to a business, product, service or other commercial activity.

Nonconforming lot means a lot that was legally established before the effective date of these LDRs or subsequent amendment thereof, but that does not comply with the dimensional standards that apply in the zoning district in which the lot is located.

Nonconforming sign means a sign or sign structure, legally developed before the effective date of these LDRs, or any amendment thereto, that does not comply with the standards in Section 6.5, Signage.

Nonconforming structure means a structure or portion thereof, not including signs, legally erected before the effective date of these LDRs, or any amendment thereto, and conflicting with the dimensional standards or these LDRs applicable to the zoning district in which the structure is situated.

Nonconforming tower means a communications or other tower, legally erected before the effective date of these LDRs, or any amendment thereto, that does not comply with the standards of Section 4.3.2(I), Utilities.

Nonconforming use means the legal use of a structure or premises before the effective date of these LDRs, or any amendment thereto, but that does not comply with the use standards of these LDRs.

Nonconformity means a nonconforming use, sign, lot, structure or building.

Notice means, for the purposes of Section 6.2.1, the written notification to landowners or occupants as agent of landowners, for the tree removal or pruning done on private property. Such notice may be accomplished by mail, hand delivery or posting on the property.

Notice of activity means the written communication to the LDR Administrator regarding the commencement of certain silviculture and agriculture activities.

Nuisance means any of the following:

1. Any public nuisance known in common law or in equity jurisprudence.
2. Any attractive nuisance which may prove detrimental to children whether in a building, on the premises of a building, or upon an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors.
3. Whatever is dangerous to human life or is detrimental to health, as determined by the County Health Officer.
4. Overcrowding a room with occupants.
5. Insufficient ventilation or illumination.
6. Inadequate or unsanitary sewerage or plumbing facilities.
7. Uncleanliness, as determined by the County Health Officer.
8. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the County Health Officer.

Nursery, commercial, means an agricultural/commercial enterprise where plants and accessory products are sold on a retail basis. Twenty-five percent of the gross sales receipts of the commercial nursery must be derived from plants produced on site; or 25 percent of the area designated as a commercial nursery shall be dedicated to the cultivation of plants to be sold on site.

Nursery, production, means an agricultural enterprise where only plants grown on site are sold on a retail or wholesale basis.

Nursing home means a private home, institution, building, residence or other place, whether operated for profit or not, including those places operated by units of government, which undertake through its ownership or management to provide for a period exceeding 24 hours, maintenance, personal care or nursing for three or more persons not related by lineal consanguinity or marriage to the operator, who by reason of illness, physical infirmity or advanced age are unable to care for themselves; provided, that this definition shall include homes offering services for less than three persons where the homes are held out to the public to be establishments which regularly provide nursing, extended care and custodial services. See also *Assisted living facility*.

Office, business services, means a room or group of rooms used for conducting the affairs of a general business establishment, other than financial services and professional services. Examples of business services office uses include offices for retail and wholesale establishments.

Office, contractor, means a room or group of rooms used for conducting business affairs of a development contractor that does not use any exterior storage area.

Office, financial services, means a room or group of rooms used for conducting the affairs of a business offering financial services, such as banking services, investment banking, stock brokerage, investment services, credit card services and the like.

Office, professional services, means a room or group of rooms used for conducting the affairs of a business, profession, or service industry. Examples of professional services offices include offices for lawyers, accountants, engineers, architects, and real estate agents.

Offices. See Section 4.2.5(E).

Official 10-year flood elevations means the most recent and reliable flood elevations based on a Log Pearson Type III Probability Distribution produced by the United States Geological Survey and based on historical data.

Opacity means a measurement indicating the degree of obscuration of light or visibility.

Outdoor storage means the keeping, of any goods, junk, material, merchandise or vehicles in the same place for more than 24 hours. This shall not include the display of vehicles for sale in a new or used car sales lot. Such activities may be the principal use of the land where located or as an accessory use to another principal use.

Outpatient facility means a facility where patients, who are not lodged overnight, are admitted for examination and treatment by one person or a group of persons practicing any form of the healing arts, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists or any such profession, the practice of which is regulated by the State of Florida. A public clinic is one operated by any governmental organization for the benefit of the general public. All other clinics are private clinics.

Overnight child care center means a facility licensed by the State to provide care services in the evening or overnight for six or more children under the age of five, other than members of the family.

Owner or landowner means the holder of the title in fee simple of property, and any person in whose name tax bills on land are submitted. The term "owner" or "landowner" also means any person who, alone, or jointly, or severally with others has:

1. Legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
2. Charge, care or control of any dwelling, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possessions, or assignee of rents, lessee or other person, firm or corporation in control of a building; of their duly authorized agents. Any such person thus representing the actual owner is considered to be bound by these LDRs to the same extent as if the person were the owner. It is the person's responsibility to notify the actual owner of the reported infractions of these LDRs pertaining to the property which apply to the owner.

Parapet means a building facade that rises above the roof level, typically obscuring a gable or flat roof as well as any roof-mounted equipment.

Parcel of land has the meaning as defined in F.S. § 163.3164.

Parcel services means retail sales or business services establishment to facilitate the transmittal and receipt of parcels.

Park trailer, for purposes of Section 6.9.4, Floodprone area standards, has the meaning as defined in F.S. § 320.01(1)(b)7.

Park, public and private, means land used for recreation, exercise, sports, education, rehabilitation or similar activities, or a land area intended to enhance the enjoyment of natural features or natural beauty, specifically excluding commercially operated amusement parks.

Park-and-ride facility means an off-street parking facility designed or intended to provide short-term parking to accommodate commuter traffic using public transportation; accessory structures include passenger shelters.

Parking bay means the parking module consisting of one or two rows of parking spaces or stalls and the aisle from which motor vehicles enter and leave the spaces.

Parking, commercial. See Section 4.2.5(F).

Parking lot means the portion of a site or development dedicated to vehicular ingress and egress, off-street parking, parking aisles, internal travel ways, fire lanes and other areas dedicated to vehicular use, but not necessarily including vehicular storage areas.

Parking lot landscaping, interior, means vegetative material, structures (walls or fences), berms, and associated ground cover located within the interior of a parking lot, or other vehicular use area for the purposes of providing visual relief and heat abatement.

Parking lot landscaping, perimeter, means vegetative material, structures (walls or fences), berms, and associated ground cover located around the perimeter of a parking lot, or other vehicular use area when such areas are adjacent to a street right-of-way or residentially zoned or used property, for the purposes of screening the vehicular use area from off-site views.

Parking, off-site, means an off-street parking area provided on a different parcel than the use it is intended to serve.

Parking space, accessible, means a space designated for the parking or temporary storage of one motor vehicle in addition to the space necessary for the ingress and egress from the vehicle by a disabled person and any equipment needed for that purpose.

Parking space, handicapped, means an off-street parking space which is reserved for persons who are physically disabled or handicapped.

Parking space, off-street, means a space which is designated for the parking or temporary storage of one motor vehicle located outside of a dedicated street right-of-way, vehicular travel way or parking aisle.

Parking structure means a structure designed to accommodate vehicular parking spaces that are fully or partially enclosed or located on the deck surface of a building. This definition includes parking garages and deck parking.

Parking, tandem, means a parking space within a group of two or more parking spaces arranged one behind the other.

Parks and open areas. See Section 4.2.3(G).

Passenger terminal, surface transportation, means a facility that receives and discharges passengers and at which facilities and equipment required for their operation are provided. Examples include terminals for bus, trolley, taxi, railroad, shuttle van or other similar vehicular services.

Pawn shop means an establishment that engages, in whole or in part, in lending or providing an advance of money or other things on the pledge and possession of personal property or secondhand goods, except for regulated metals property regulated under F.S. ch. 538, pt. II, or other than securities or written or printed evidences of indebtedness. The seller of such personal property or secondhand goods may be able to purchase back the items sold to the establishment upon stipulated terms. Merchandise and other secondhand goods may be available for purchase by customers of the establishment. This term shall not include financial institutions, retail sales establishments, or consignment shops.

Perimeter buffer means vegetative material and structures (i.e., walls, fences) which is used to separate land uses from each other as required by these LDRs, including but not limited to: Type A, basic; Type B, aesthetic; Type C, semi-opaque; and Type D, opaque, described in Section 6.2.2(D)(3), Perimeter buffers.

Perimeter landscape strip means vegetative material associated with the perimeter landscaping required for a parking lot.

Permanent control point (PCP) means a secondary horizontal control monument as defined in F.S. § 177.031(13).

Permanent reference monument (PRM) means a control monument as defined in F.S. § 177.031(15).

Person means any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any legal entity. For the purposes of Section 2.5, Development agreements, the term "person" means any individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, State agency or any legal entity. For the purposes of Article 9, Enforcement and Remedies, the term "person" includes any individual, corporation, government agency, government official, business trust, partnership, two or more persons having a joint interest, or any other legal entity. Persons subject to the remedies and penalties established in Article 9, Enforcement and Remedies, for violating these LDRs include: an architect, engineer, builder, contractor, developer, agency or any other person who participates in, assists, directs, creates, causes or maintains a condition that results in or constitutes a violation of these LDRs; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the land on which the violation occurs.

Personal services establishments, general, means an establishment primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Examples include laundromats; laundry and dry cleaning dropoff establishments; photographic studios; mailing or packing service, photocopy and blueprint services; hair, tanning and personal care services; psychics and mediums; martial arts schools; dance or music classes; taxidermists; and mortuaries.

Pet farm means an establishment in which livestock, farm animals and other animals are kept for public exhibition, viewing and contact, regardless of compensation, which may include related accessory uses and activities such as gift shops, picnic areas and recreational activities. For the purpose of these LDRs, the term "pet farm" shall not include retail pet stores and kennels, horse races, and such activities as fairs, livestock shows, rodeos, field trials and horse events.

Planned development means a tract of land that is planned and developed as an integral unit in accordance with a master plan and flexible development standards that illustrate and address land uses, circulation, utilities, parking, setbacks, housing densities, land coverage, landscaping and buffers, open space, and similar features of the project. (See Section 2.4.3, Planned development, and Section 3.6, Planned development (PD) districts.)

Planning and Zoning Board means the Planning and Zoning Board, as herein provided for within these LDRs.

Plat, final, means a finished drawing of a subdivision showing completely and accurately all legal and engineering information and certification necessary for recording.

Plat, preliminary. See Section 2.4.10(G)(2).

Plat, replat, or revised plat means a map or delineated representation of the subdivision of lands, being a complete exact representation of the subdivision and other information in compliance with the requirement of all applicable sections of this part and of any local ordinances.

Police station means a building or part of a building that is designated by a chief of police or sheriff to be used as a police or sheriff's station and at which duly authorized officers perform law enforcement functions.

Portico means a porch or walkway with a roof supported by columns, often leading to the entrance of a building.

Post office means a facility designated or licensed by the Federal government to sell U.S. postage stamps and U.S. postal products and accept mail and packages for delivery.

Precious metals dealer has the meaning as defined in F.S. § 538.03.

Preexisting tower or preexisting antenna means, for the purposes of Section 4.3.2(I)(1), any tower or antenna for which a building permit or special exception permit has been properly issued prior to February 27, 2006, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Primary conservation area means as used in Section 7.9, Conservation subdivision, the geographic area occupied by priority conservation features to be actively conserved and protected from development, including 100-year floodplains, wetlands, habitat for endangered species, soils incapable of supporting development, riparian corridors and steep slopes.

Primary drive aisle means the main aisle that extends from the street right-of-way, or from the driveway entrance serving a development along the front of the building it serves.

Primary entrance means the place of ingress and egress to a building, parcel or development used most frequently by the public.

Primary facade means the side of a building that contains the primary entrance.

Primary live entertainment means entertainment that characterizes the establishment, as determined (if necessary) from a pattern of advertising, as well as actual performances.

Private club or lodge means facilities owned or operated by an organization of persons for special purposes, such as the promulgation of sports, arts, literature, politics, but not operated for profit, and excluding religious institutions, and also excluding structures and uses associated with commercial or noncommercial outdoor recreation.

Private improvement means elements of a site or development located on privately owned land which are required by the provisions of these LDRs. The term "private improvement" includes, but is not limited to, off-street parking or loading spaces, landscaping, screening devices, fences, walls, facilities within open space set-aside areas, exterior lighting or signage.

Psychiatric treatment facility means an inpatient facility which provides care for persons with psychiatric problems and which may include outpatient follow-up care to the facility's patients.

Public facilities includes, for the purposes of Section 2.5, Development agreements, any major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities. For the purposes of Section 2.4.14, Certificate of concurrency compliance, one of the facilities for which a level of service standard is adopted in the Comprehensive Plan, including roads, sanitary sewer, solid waste, stormwater management, potable water or recreation facilities.

Public hearing means a public hearing conducted by a review or decision-making body in accordance with Section 2.3., Public hearing procedures.

Public improvements means major capital improvements, constructed by or dedicated to the City including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

Public safety. See Section 4.2.3(H).

Public Services Director means the Director of the Public Services Department for the City of Alachua.

Public square means a public open space which provides safe and accessible places for the public to meet or gather. It may provide shelter or benches, and public art, and groups or individuals can spend time in public squares without impeding neighboring streets, businesses, resources or homes.

Qualified applicant means, for purposes of Section 2.5, Development agreements, a person who has legal or equitable interest in the real property which is the subject of a development agreement. If there is a question as to whether a person is a qualified applicant, the applicant shall provide the City with an opinion of title from an attorney licensed to practice in the State of Florida or a commitment of title insurance demonstrating the person which has a legal or equitable interest in property subject to the proposed development agreement.

Quality tree protection area means an area protected through a tree preservation or conservation easement that is a minimum of one acre in size containing tree canopy coverage of at least 40 percent (or demonstrated to obtain such canopy coverage within 20 years of designation as quality tree protection area).

Quasi-judicial public hearing means a public hearing conducted by a review or decision-making body in accordance with Section 2.3.1, Quasi-judicial public hearings.

Radio and television broadcasting studio means a facility for the staging and recording of audio or television productions.

Railroad right-of-way means a public or private right-of-way on which tracks for trains are constructed. Such uses can include crossing lights, mechanical facilities, and short-term storage of maintenance equipment or other supplies.

Recreation/entertainment, indoor. See Section 4.2.5(G).

Recreation/entertainment, outdoor. See Section 4.2.5(H).

Recreational trail means a trail designed for and used for recreational purposes such as bicycling, trail biking, equestrian activities, day hiking, jogging or similar fitness activities.

Recreational vehicle means a transportable structure primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motor power or is mounted on or drawn by another vehicle. Recreational vehicles, when traveling on the public roadways of the State, must comply with the length and width provisions of F.S. § 316.515. The term "recreational vehicle" shall include motor home, camper bus and travel trailer, camping trailer, truck camper but shall not include pick-up trucks with camper shells that extend one foot or less above the cab of the truck; provided however, for the purposes of Section 6.9.4, Floodprone area standards, means a vehicle, including a park trailer, which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Recreational vehicle rental and sales means the display and sales or rental of recreational vehicles.

Recycling and salvage center means a facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials. Such a facility is not a solid waste management facility if it meets the conditions of Rule 62-701.220(2)(c), F.A.C.

Recycling dropoff center means a small collection facility where recyclable materials are purchased or accepted from the public. Typical uses include neighborhood recycling stations and thrift store collection trucks.

Regulated materials means the following:

- Petroleum products, which include fuels (gasoline, diesel fuel, kerosene and mixtures of these products, lubricating oils, motor oils, hydraulic fluids and other similar products. The term "regulated materials" does not include liquefied petroleum gas, American Society for Testing and Materials grade No. 5 and No. 6 residual oils, Bunker C residual oils, intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher and asphalt oils.

- Substances listed by the Administrator of the United States Environmental Protection Agency pursuant to Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. This list is provided in [Title 40](#) (Protection of the Environment) of the Code of Federal Regulations, Part 302, Designation, Reportable Quantities and Notification.
- Substances listed by the Administrator of the United States Environmental Protection Agency pursuant to Title III of the Superfund Amendments and Reauthorization Act of 1986. The list is provided in [Title 40](#) of the Code of Federal Regulations, Part 355, Emergency Planning and Notification.
- Materials listed by the Secretary of the United States Department of Transportation pursuant to the Hazardous Materials Transport Act. This list is provided in Title 49 (Transportation) of the Code of Federal Regulations, Part 172, Hazardous Materials Tables and Communications Regulations.
- The following elemental metals, if they are stored in an easily crumbled, powdered or finely divided state: aluminum, beryllium, cadmium, chromium, copper, lead, manganese, mercury, molybdenum, nickel, rhodium, silver, tellurium, tin and zinc.
- Mixtures containing the materials set forth in this definition if they contain one per cent or more by volume or if they are wastes.
- Any material not included in this definition which may present similar or more severe risks to human health or the environment as determined by the LDR Administrator. Such determinations must be based upon competent testing or other objective means with conclusions which indicate the material may pose a significant potential or actual hazard.

Religious institution means a structure or place in which worship, ceremonies, rituals and education are held, together with its accessory buildings and uses (including buildings used for educational and recreational activities), operated, maintained and controlled under the direction of a religious group. The term "religious institutions" include churches, mosques, synagogues, and temples. Accessory uses may include school facilities, parking, caretaker's housing, pastor's housing and group living facilities such as convents.

Remove means, for the purposes of Section 6.2.1, the actual removal and effective removal through killing, damaging or destroying any regulated, heritage or champion tree.

Repair establishment means an establishment primarily engaged in the provision of repair services for TVs, bicycles, clocks, watches, shoes, guns, canvas products, appliances and office equipment; including tailor, locksmith and upholsterer.

Repair of scientific or professional instruments means an establishment primarily engaged in the provision of repair services for scientific or professional instruments for businesses.

Residential districts, for the purposes of Section 4.3.4(I) only, means land carrying the following zone district classifications: RSF-1, RSF-3, RSF-4, RSF-6, RMH-5, RMH-P, RMF-8, RMF-15, residential planned developments (PD-R), traditional neighborhood planned development (PD-TND), and the residential portions of major employment center planned developments (PD-EC).

Resource-based recreation uses means recreation uses that involve the use of existing natural resources, having a minimal impact on the environment.

Resource-based recreation uses, nonintensive, means recreational activities that generally do not require a developed site. This generally includes such activities as hiking, horseback riding, and picnicking. Nonintensive resource-based recreation uses do not include activities involving vehicles or games such as paint ball.

Resource recovery plant means a facility that recovers materials or energy from solid waste, excluding those materials or solid waste under the control of the Nuclear Regulatory Commission. The facility uses resource recovery equipment, as defined by Chapter 62-701, F.A.C.

Restaurant, indoor seating only means an establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises, but only indoor seating is available for on-site consumption.

Restaurant, with drive-through or drive-in service means an establishment where provision is made on the premises for the selling, dispensing, or serving of food, refreshments, or beverages to persons in automobiles and/or in other than a completely enclosed building on the premises, including those establishments where customers may serve themselves and may eat or drink the food, refreshments or beverages in automobiles on the premises. A restaurant which provides drive-in facilities of any kind shall be deemed a drive-in restaurant. Such an establishment by design encourages or permits customers to obtain goods while remaining in their motor vehicles.

Restaurant, with outdoor seating means an establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. Such a facility may include indoor and outdoor seating, but no drive-through service.

Restoration plan means a drawing that shows the type, size, number, and location of trees and other landscaping material that will be planted on a piece of property by an owner or developer to replace trees that have been removed without or in violation of a tree removal permit.

Retail sales and service. See Section 4.2.5(I).

Retention means the collection and storage of runoff without subsequent discharge to surface waters.

Right-of-way. See Section 5.2.2(A)(3).

Roadway functional classification means the assignment of roads into categories according to the character of service they provide in relation to the total road network. Basic functional categories include limited access facilities, arterial roads and collector roads, which may be subcategorized into principal, major or minor levels. Those levels may be further grouped into urban and rural categories.

Rolled plastic means a type of fencing material composed of plastic that is mounted to fence posts.

Roominghouse means any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not related.

Root aeration system means vertical pipes or drains installed at various intervals under the tree canopy to allow for the exchange of air and gases. This procedure is normally used when backfill is added to a location under the tree canopy.

Right-of-way (ROW) line means the line which outlines the area owned or maintained by the City, County, State of Florida, Federal government, a public utility, a railroad or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, streets, pedestrian walkways, utilities or railroads.

Rural agricultural corporate retreat means a use compatible to the primary land use of agriculture, horticulture, animal husbandry, open space and/or historic preservation, which is engaged in the study, testing, design, invention, evaluation and development of new technologies, techniques, processes, or services. Rural agricultural corporate retreats are to be utilized for basic and applied research wherein the scientific inquiry process is conducted in a manner similar to that of institutions of higher learning. Rural agricultural corporate retreat facilities may include facilities for associated training programs, seminars, conferences, and related activities. No outdoor storage related to the corporate retreat use is permitted. No on-site retail or wholesale sales are permitted.

Sadomasochistic practices means flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound or otherwise physically restrained, on the part of one so clothed or naked.

Safety fences means a solid and substantially built fence intended as a means of protection or security and designed to separate on-site and off-site areas.

Sales establishments, general, means commercial enterprises that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser. Examples include stores selling, leasing, or renting consumer, home, and business goods such as art, art supplies, bicycles, cameras, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries and food sales, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery and videos.

Sales office means a room or group of rooms used for conducting the sales affairs of a business.

Salvage yard and *junkyard* mean an establishment where junk, waste, discarded, salvaged or similar materials such as old metals, wood, slush, lumber, glass, paper, rags, cloth, bagging, cordage, barrels, containers and the like, are brought, sold, exchanged, baled, packed, disassembled, stored or handled, including used lumber and building material yards, housewrecking yards, heavy equipment wrecking yards, and yards or places for the storage, sale or handling of salvaged house wrecking or structural steel materials. This definition shall not include automobile wrecking or automobile wrecking yards and establishments for the sale, purchase, or storage of secondhand cars, clothing, salvaged machinery, furniture, radios, stoves, refrigerators, or similar household goods and appliances, all of which shall be usable, nor shall it apply to the processing of used, discarded or salvaged materials incident to manufacturing activity on the same site where such processing occurs.

Sanitary sewer means structures or systems designed for the collection, transmission, treatment or disposal of sewage and includes trunk mains, interceptors, treatment plants and disposal systems.

Sanitary sewer facilities means structures or systems designed for the collection, transmission, treatment or disposal of sewage, including trunk mains, interceptors, treatment plants and disposal systems.

Sawmill means a mill for sawing timber or logs into boards or lumber.

School means a public or private institution at the elementary, middle or high school level that provides educational instruction to students, but not including an establishment primarily for the instruction of adults, a day care, a day care home, a child care center, or an in-home school for the purposes of instructing children of the family residing in the household.

Secondary conservation areas means as used in Section 7.9, Conservation subdivision, the geographic area occupied by conservation features that occupy a lower priority for conservation and protection than primary conservation areas, but which are still required to be protected from development, including historic, archeological and cultural resources, mature forests, natural fields, prime agricultural lands, scenic corridors and areas that could be utilized to extend existing recreation areas.

Sediment means the mineral or organic particulate material that is in suspension or has settled in surface waters or groundwaters.

Self-service storage means a building divided into sections for use for storage of items, either temporary or long-term, and not to be used for any other purpose (such as small offices, garages, etc.). A self-service storage is also known as a mini-warehouse. See also Section 4.2.5(j).

Senior center means a facility where older adults come together for services and activities that reflect their experience and skills, respond to their diverse needs and interests, enhance their dignity, support their independence and encourage their involvement in and with the center and the community.

Sex shop means an establishment offering goods for sale or rent and that meets any of the following tests:

1. More than ten percent of its stock in trade consists of sexually explicit media and/or sex toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; or
2. More than ten percent of its gross public floor area is devoted to the display of sexually explicit media and/or sex toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; or
3. More than ten percent of its gross vertical display area is devoted to the display of sexually explicit media and/or sex toys and novelties, or any combination thereof, and it also offers for sale lingerie and/or leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; or
4. More than five percent of its stock in trade consists of sexually oriented toys or novelties; or
5. More than five percent of its gross public floor area is devoted to the display of sexually oriented toys or novelties.

For the purposes of this definition, the "gross public floor area" devoted to any class of items shall include the aisles or other areas where customers stand when viewing such items as well as the actual area under the display racks for the items.

Sexual conduct means the engaging in or the commission of an act of sexual intercourse, oral-genital contact, or the touching of the sexual organs, pubic region, or female breast of another person for the purpose of arousing or gratifying the sexual desire of customers or members of the audience.

Sexual gratification means sexual conduct as defined herein.

Sexually explicit media means magazines, books, videotapes, movies, slides, CD-ROMs, or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified anatomical areas and/or sexual conduct.

Sexually oriented acts means sexual conduct as defined herein.

Sexually oriented business is an inclusive term used to describe collectively: sexually oriented cabaret; sexually oriented media store; sexually oriented motion picture theater; sex shop; bath house; and massage parlor (subject to exceptions in the separate definition of massage parlor) and/or sex shop.

Sexually oriented cabaret or *sex oriented cabaret* means a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specified anatomical areas for observation by customers therein; without limiting the foregoing, the definition also includes a building or portion of a building where the waitpersons, owners, operators, managers, their agents or other service staff display specified anatomical areas for observation by others therein.

Sexually oriented cinema, *sexually oriented motion picture theater* or *sex oriented cinema* means a cinema or motion picture theater that shows sexually explicit movies or other media on more than half the days that it is open during any 90-day period, or that advertises or holds itself out in any forum as offering movies or other media described as adult, XXX or sexually oriented.

Sexually oriented media store means an establishment that rents and/or sells media, and that meets any of the following three tests:

1. Thirty percent or more of the gross public floor area is devoted to sexually explicit media and/or to aisles from which customers view the displays of such media;
2. Thirty percent or more of the stock in trade consists of sexually explicit media;
3. It advertises or holds itself out in any forum as XXX, adult, sexually oriented or otherwise as a sexually oriented business other than a sexually oriented movie theater or sexually oriented cabaret.

Sexually oriented toys or novelties means instruments, devices or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs. The use for which a device is designed, intended or marketed may be determined from: the name of the device; the shape of the device; information on the package in which the device is offered; the retail context in which the device is offered; advertising material about the device or any combination of these factors.

Shrub means a woody plant, smaller than a tree, consisting of several small stems emerging from the ground, or small branches near the ground. Shrubs may be deciduous or evergreen.

Sidewalk means that portion of the street right-of-way outside the roadway, which is improved for the use of pedestrian or bike traffic.

Sight distance triangle means the horizontal and vertical areas at the intersections of streets and/or driveways which must remain unobstructed, in order to ensure that drivers can see traffic and pedestrians around the corner of the intersection, entrance or driveway.

Sign, banner, means a sign made of canvas or other approved flexible materials with or without a structural frame and attached to a building, canopy, pole, or other structure.

Sign, freestanding, means a sign which is supported by one or more poles, pylons, columns, platforms, uprights, or braces in the ground and is not attached to a building or structure; also known as a ground sign or monument sign.

Sign, incidental, means a sign generally informational, that has a secondary purpose to the use of the lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and similar information and directives. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

Sign, on-site, means a sign containing copy relating only to the principal business, product, service, or activity conducted or sold on the same lot or parcel of record as that on which the sign is located or a noncommercial message.

Sign, permanent, means a sign that is permanently mounted to a foundation, a pole on a foundation, a wall, or any portion of a building.

Sign, portable, means any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs made of A-frames or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for commercial messages; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless such vehicle is used in the normal day-to-day operations of the business.

Sign, roof, means a sign erected, constructed, or maintained on the roof of a building or structure above the eaves, or above the mansards, parapets, or other similar architectural features of buildings or structures. Roof signs are prohibited.

Sign, sandwich board, means a temporary, portable sign consisting of two panels, hinged or otherwise joined together at the top and designed to be self-supporting by placement on the ground in the shape of an inverted V.

Sign, temporary, means any sign that is used only for a short, specifically limited time and that is not permanently mounted.

Silviculture means the planting, care, cultivation, and harvesting of forest trees.

Site landscaping means required vegetative material consisting of trees and shrubs which are placed on a development site to soften built edges and provide transitions.

Site plan means an engineering review, approved with conditions, or denied by the LDR Administrator in accordance with Section 2.4.9, Site plan.

Site-specific amendments to the Official Zoning Atlas means an application for adjustment to the Official Zoning Atlas reviewed and approved, approved with conditions, or denied by the City Commission in accordance with Section 2.4.2, Site-specific amendments to the Official Zoning Atlas.

Site work means those construction activities that are done to the ground surface of a construction site for the construction of a structure or that are done in conjunction with the construction of a structure. Site work included, but is not limited to, changing the grade of the ground surface; excavation; adding earth material fill; compaction; constructing parking lots and driveways; striping or parking directional arrows in parking and driveway areas; constructing sidewalks or walkways; erecting walls or fences; installing utility poles, or running wires from pole to pole or from pole to structure; installing underground utilities, including electric, gas, phone, sewer, or water lines; erecting signs; installing trash dumpster pads; and removing trees.

Soil survey means the United States Department of Agriculture, Soil Conservation Service Soil Survey for Alachua County, Florida.

Source of light means a single artificial point of luminescence that emits measurable radiant energy in or near the visible spectrum.

Special event permit means a permit reviewed and approved, approved with conditions, or denied by the LDR Administrator in accordance with Section 2.4.13, Special event permit.

Special exception permit means a permit reviewed and approved, approved with conditions, or denied by the Board of Adjustment in accordance with Section 2.4.4, Special exception permit.

Special flood hazard area has the meaning as defined in Section 202, Florida Building Code, as amended.

Special permit means a permit reviewed and approved, approved with conditions, or denied by the LDR Administrator in accordance with Section 2.4.16, Special permits.

Specialty eating establishment means establishments selling specialty food items that normally do not constitute a full meal including, but not limited to: ice cream parlors, dessert cafes, snack shops, juice and coffee houses, and bakeries.

Specified anatomical areas includes:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means and includes human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse or sodomy.

Stable means a facility for the keeping of horses for the private use of the residents of the lot. Such facility may include the commercial boarding of ten or fewer horses and no more than one instructor engaged for the purpose of educating and training students in equitation.

Stacking/standing area means a portion of the parking lot on a site which is dedicated to the temporary storage or "standing" of vehicles engaged in drive-through use of the site or development. Parking or the storage of vehicles is not permitted within the stacking/standing area.

Standard public hearing means a public hearing conducted by a review or decision-making body in accordance with Section 2.3.2, Standard public hearings.

Start of construction has the meaning as defined in Section 202, Florida Building Code, as amended.

State means the State of Florida.

Stormwater means the flow of water that results from and that occurs immediately following a rainfall.

Stormwater management device means the system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater management system means a system designed to treat stormwater, or collect, convey, channel, hold, inhibit, or divert the movement of stormwater on, through and from a site.

Stormwater runoff means the portion of the stormwater that flows from the land surface of a site either naturally, in manmade ditches, or in a closed conduit system.

Street means a public or private roadway which affords the principal means of access to abutting property. The term "street" includes lanes, ways, places, drives, boulevards, roads, avenues or other means of ingress or egress regardless of the descriptive term used.

Street, arterial, means a street which carries large volumes of traffic over long distances.

Street, collector, means a street which serves as the connecting link for local streets and arterials. The traffic characteristics generally consist of relatively short trip lengths with moderate speeds and volumes.

Street, cul-de-sac, means a street with a single means of ingress and egress with a turnaround at the terminus.

Street, dead-end, means a street with a single common ingress and egress.

Street frontage means the distance for which a lot line adjoins a public or private street from one lot line intersecting said street to the furthest lot line intersecting the same street.

Street functional classification means the assignment of roads into categories according to the character of service they provide in relation to the total road network. Basic functional categories include limited access facilities, arterial roads and collector roads, which may be subcategorized into principal, major or minor levels. Those levels may be further grouped into urban and rural categories.

Street line means the line between the street and abutting property. A street line is also referred to as the "right-of-way line."

Street, local, means a street whose primary function is to provide the initial access to the collector and arterial streets. These facilities are characterized by short trips, low speeds and small traffic volumes.

Street, loop, means a street that originates and terminates at intersections with the same street.

Street, marginal access, means a street, parallel and adjacent to an existing street, providing access to abutting lots.

Street, private, means a way of access to two or more properties which is open to vehicular ingress and egress, owned and maintained by affected property owners, but which is not considered to be a driveway.

Street, public, means any street or road owned or maintained by a unit of government.

Street trees means canopy trees planted or existing along either side of street/road right-of-way.

Structure has the meaning as defined in F.S. §§ 163.3164 and 380.31.

Subdivider means any person dividing or proposing to divide land so as to constitute a subdivision as herein defined, including a developer or an agent of a developer.

Subdivision means the division of a parcel of land, whether improved or unimproved, into three or more lots or parcels of land, for the purpose of transfer of ownership. The term "subdivision" includes a resubdivision and replatting of lands located within an existing subdivision.

Subdivision, major, means any subdivision not classified as a minor subdivision, including but not limited to subdivisions of four or more lots, or any size subdivision requiring any new street or extension, the expansion of any existing street or road, the extension of local government facilities, or the creation of any public improvements.

Subdivision, minor, means any subdivision containing not more than six lots fronting on an existing street, which does not involve:

- (a) The establishment of a new street or road;
- (b) The expansion of existing streets or roads;
- (c) The extension of local government facilities;
- (d) The creation of any public improvements; and

does not adversely affect the remainder of the parcel or adjacent property; and is not in conflict with any provision or portion of the Comprehensive Plan or these LDRs.

Subdivision preliminary plat means an application for preliminary approval of a major subdivision reviewed and approved, approved with conditions, or denied by the City Commission in accordance with Section 2.4.10(G), Major subdivision.

Subdivision variance permit means a permit reviewed and approved, approved with conditions, or denied by the City Commission in accordance with Section 2.4.7(D), Subdivision variance permits.

Substantial construction means the point in development when all required permits necessary to continue the development have been obtained and actual construction of potable water, sanitary sewer lines, streets, or stormwater management systems, on such portion of the development is complete or progressing in a manner that moves the entire development towards completion.

Substantial damage has the meaning as defined in Section 202, Florida Building Code, as amended.

Substantial improvement has the meaning as defined in Section 202, Florida Building Code, as amended.

Substation for fire and police means any building or part of a building that is designated by the chief of police or sheriff to be used as a police or sheriff's station or substation and at which duly authorized officers perform law enforcement functions.

Surface water means water above the surface of the ground whether or not flowing through definite channels, including the following:

1. Any natural or artificial pond, lake, reservoir or other area that ordinarily or intermittently contains water and that has a discernible shoreline;
2. Any natural or artificial stream, river, creek, channel, ditch, canal, conduit culvert, drain, waterway, gully, ravine, street, roadway, swale or wash in which water flows in a definite direction, either continuously or intermittently and that has a definite channel, bed or banks; or
3. Any wetland.

Surficial aquifer system means the permeable hydrogeologic unit contiguous with land surface that is comprised principally of unconsolidated to poorly indurated clastic deposits. It also includes well-indurated carbonate rocks, other than those of the Floridan Aquifer System where the Floridan is at or near land surface. Rocks making up the surficial aquifer system belong to all or part of the upper Miocene to Holocene Series. It contains the water table and water within it is under mainly unconfined or locally confined conditions; however, beds of low permeability may cause semi-confined or locally confined conditions to prevail in its deeper parts. The lower limit of the surficial aquifer system coincides with the top of laterally extensive and vertically persistent beds of much lower permeability. Within the surficial aquifer system, one or more aquifers may be designated based on lateral or vertical variations on water bearing properties.

Surveyor, land, means a land surveyor registered under F.S. ch. 472, as amended, who is in good standing with the Florida Department of Business and Professional Regulations.

Tandem parking. See *Parking, Tandem*.

Tattoo parlor/body-piercing studio means an establishment whose principal business activity is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by such means, including but not limited to, the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

Taxicab service means a service that offers transportation in passenger automobiles and vans to persons.

Temporary use permit means a permit review and approved, approved with conditions or denied by the LDR Administrator in accordance with Section 2.4.12, Temporary use permit.

Temporary vehicle storage means a use established for 30 days or less for the purpose of storing, or covering a motor vehicle with the intent to discontinue such use at the end of the 30-day period.

Text amendment means a request to amend or revise the text of these LDRs reviewed and approved, modified or denied by the City Commission in accordance with Section 2.4.1, Text amendments and general amendments to the Official Zoning Atlas.

Tire disposal or recycling means a facility which disposes of or recycles waste tires or waste tire residuals.

Tire sales and mounting means an establishment where the principal business is the sale or installation of new, used, or retread tires and tubes.

Tool repair means an establishment which repairs tools for compensation.

Topping, topped or top means the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.

Tower means, for the purposes of Section 4.3.2(l)(1), any structure that is designed and constructed primarily for the purpose of supporting one or more antenna for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term "tower" includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. The term "tower" includes the structure and any support thereto.

Towing service means an establishment that provides services for the removing of an automobile by towing, carrying, hauling or pushing from public or private property. Towing services may be provided as part of an automobile servicing use. Towing services shall not include the outdoor storage of towed vehicles, unless they are part of an automobile servicing use.

Transitional swale means a swale, designed as a part of a stormwater management system that meets the pollutant removal goals of Chapter 62-40 of the Florida Administrative Code through the following criteria:

- (1) The average treatment efficiency of the areas treated and the areas not treated must achieve at least 80 percent reduction of the average annual load of pollutants that would cause or contribute to violations of state water quality standards for Class III waters.
- (2) The average treatment efficiency of the areas treated and the areas not treated must achieve at least 95 percent reduction of the average annual load of pollutants that would cause or contribute to violations of state water quality standards for Class I, Class II, Outstanding Florida Waters, or Class III waters which are approved, conditionally approved, restricted, or conditionally restricted for shellfish harvesting.

Transmission or muffler shop means an establishment where the principal business is the sale or installation of transmissions or mufflers.

Transportation. See Section 4.2.3(l).

Tree means a self-supporting, woody perennial plant, usually with one vertical stem or main trunk, which naturally develops a distinct, elevated crown and provides, at maturity, natural characteristics of the species.

Tree, canopy, means any self-supporting woody plant of a species that normally achieves an overall height at maturity of 30 feet or more.

Tree, champion, means those trees that have been identified by the Florida Division of Forestry as being the largest of their species within the State of Florida or by the American Forestry Association as the largest of their species in the United States. A champion tree is a regulated tree.

Tree, deciduous, means a tree which drops its foliage annually before becoming dormant.

Tree, evergreen, means a tree with foliage that is not dropped, or which remains green throughout the year.

Tree, heritage, means trees with a diameter of at least 30 inches or seven feet, ten inches in circumference, whichever dimension is lesser, measured at a point 4½ feet above ground level. A heritage tree is a regulated tree.

Tree, ornamental. See *Tree, understory*.

Tree, protected, means any tree growing within the tree protection area.

Tree protection area means the portion of a development site located under a tree canopy area to be retained during the development process. (See [Section 6.2](#). Tree protection/landscape/xeriscape standards.)

Tree, regulated, means any living tree which is ten inches or more in diameter or two feet in circumference, whichever dimension is lesser, measured at a point 4½ feet above ground level. This definition shall not include any species of pine tree or nuisance tree regardless of size. Heritage trees and champion trees are regulated trees.

Tree removal permit means a permit reviewed and approved, approved with conditions, or denied by the LDR Administrator in accordance with Section 2.4.17, Tree removal permits.

Tree, replacement, means those species of trees which may be replanted for any of the replanting requirements of Section 6.2.1.

Tree, shade. See *Tree, canopy*.

Tree, street, means canopy or shade trees planted at regular intervals within or adjacent to existing street rights-of-way.

Tree, understory, means a tree that has an expected height at maturity no greater than 30 feet.

Truck or freight terminal means a use where buses, trucks and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed.

Truck rental and sales means an establishment where new or used trucks are displayed for sale, lease or rental.

Uniformity ratio means a measurement of the relative difference in illumination values, at ground level, between differing exterior lighting sources on a single property.

Use category. See [Section 4.2](#).

Use table. See [Section 4.1](#).

Use type. See [Section 4.2](#).

Utilities. See Section 4.2.3(J).

Utility, major, means infrastructure services providing regional or communitywide service that normally entail the construction of new buildings or structures such as water towers, waste treatment plants, potable water treatment plants, solid waste facilities, electrical substations, and park-and-ride facilities..

Utility, minor, means infrastructure services that need to be located in or near the neighborhood or use type where the service is provided. Examples of minor utilities include water and sewage pump stations, distribution electric substations, as defined in F.S. § 163.3208, stormwater retention and detention facilities, telephone exchanges, and surface transportation stops such as bus stops.

Utility strip means a strip of ground typically located between the sidewalk and the back of curb or edge of pavement of a public or private street. The utility strip is usually intended for the placement of underground or aboveground utilities.

Vehicle display pad means an area, frame or other device where automobiles or other vehicles are displayed for the purposes of sale.

Vehicle sales and service. See Section 4.2.5(L).

Vertical display area, gross means the total of the following: 1) all wall space used for product display or for photos of or posters about specific products, as measured by the smallest rectangle that will include all of the materials on one wall plane; and 2) for each set of display shelves, racks or other display devices, the area of the smallest rectangle that is perpendicular to the floor that will include the entire display rack or device and any and all products extending above or to the side of such rack.

Very low-income household means one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the State, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the County in which the person or family resides, whichever is greater.

Vested rights certificate means a permit reviewed and approved, approved with conditions, or denied by the City Commission in accordance with Section 2.4.22, Vested rights certificate.

Veterinary clinic means a facility for the care and treatment of animals, including household pets. Such facilities may be entirely indoors or may have both indoor and outdoor components.

Veterinary services means a service characterized by the care and treatment of small animals, including household pets.

Vine means any plant with a long, slender stem that trails or creeps on the ground or climbs by winding itself on a support.

Visitor accommodations. See Section 4.2.5(M).

Vocational school means a specialized instructional school that provides on-site training of business, commercial and/or trade skills such as accounting, data processing and computer repair.

Wall means as used in required landscaping, a structure used to delineate a boundary or act as a barrier or means of protection, confinement or screening.

Warehouse and freight movement. See Section 4.2.5(N).

Warehouse (distribution) means a use engaged in distribution of manufactured products, supplies, and equipment.

Warehouse (storage) means a use engaged in storage of manufactured products, supplies and equipment, excluding bulk storage of materials that are flammable or explosive or that present hazards or conditions commonly recognized as offensive.

Waste composting means uses where solid wastes are composted using composting technology. Accessory uses may include offices and repackaging and transshipment of byproducts.

Waste-related services. See Section 4.2.5(O).

Water wells means wells excavated, drilled, dug, or driven for the supply of industrial, agricultural, or potable water for general public consumption.

Watercourse means any natural or artificial channel, ditch, canal, stream, river, creek, waterway or wetland through which water flows in a definite direction, either continuously or intermittently and which has a definite channel, bed, bank or other discernible boundary.

Waterfront setback line means a line running parallel to a river and at a distance as specified within these land development regulations.

Well means any excavation that is drilled, cored, bored, washed, driven, dug, jetted or otherwise constructed when the intended use of such excavation is to conduct groundwater from an aquifer or aquifer system to the surface by pumping or natural flow, to conduct waters or other liquids from the surface into any area beneath the surface of land or water by pumping or natural flow, or to monitor the characteristics of groundwater within an aquifer system. Geotechnical borings greater than 20 feet in depth shall be included in the definition of "well."

Wellfield exemption permit means a permit reviewed and approved, approved with conditions, or denied by the City Commission in accordance with Section 2.4.24, Wellfield exemption permit.

Wellfield management zone means a wellfield protection area around community water system wellheads. (See Section 6.9.7.)

Wetland means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. The delineation of wetlands has been defined by the uniform statewide methodology adopted by the Florida Department of Environmental Protection and Water Management Districts as outlined in Rule 62-340, Florida Administrative Code, as the rule exists on January 1, 2001. The County shall not be limited by the threshold or connection requirements utilized by these agencies for purposes other than delineation.

Wetland setback. See Section 5.2.2(A)(4).

Wholesale sales (all uses) means establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional or professional business users; or to other wholesalers. The term "wholesale establishment" does not include office or retail sales of business supplies/office equipment.

Wireless telecommunication antenna means any apparatus designed for the transmitting and/or receiving of electromagnetic waves which includes, but is not limited to telephonic, radio or television communications. Types of antennas include, but are not limited to: Omni-directional (whip) antennas, sectorized (panel) antennas, multibay or single bay (FM and TV), yagie or parabolic (dish) antennas.

Wireless telecommunication antenna, collocation means a situation in which two or more different wireless communication service providers place wireless communication antennas and/or other wireless communications equipment on a common antenna-supporting structure (building, tower or other stationary device).

Wireless telecommunication antenna, placement on existing structure means the placement of a wireless telecommunication antenna on an existing business use or multifamily building with eight or more dwelling units as a permitted use.

Wireless telecommunication tower, alternative tower structure means manmade trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Wireless telecommunication tower and/or antenna, freestanding, means a structure erected on the ground and used primarily for the support of antennas for wireless telephone, and similar communication purposes and utilized by commercial, governmental, or other public or quasi-public users. The term includes microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term does not include private home use of satellite dishes and television antennas, or amateur radio operators as licensed by the FCC.

Yard. See Section 5.2.2(A)(6).

Yard, front. See Section 5.2.2(A)(7).

Yard, front; depth required. See Section 5.2.2(A)(8).

Yard, rear. See Section 5.2.2(A)(11).

Yard, rear; depth required. See Section 5.2.2(A)(12).

Yard, side. See Section 5.2.2(A)(9).

Yard, side; depth required. See Section 5.2.2(A)(10).

Yard, waterfront. See Section 5.2.2(A)(13).

Yield plan means a series of maps and other documentation illustrating the planning process undertaken for a conservation subdivision. The yield plan includes a site analysis map, a conservation and development areas map, a conservation plan, and a preliminary site improvements plan, as well as any supporting information.

Youth club facility means a boys' club, a girls' club, or any other facility that is not a school but which provides entertainment, recreation, crafts, tutorials or other quality of life enhancements for minors, whether a nonprofit facility or otherwise.

Zoning variance permit means a permit reviewed and approved, approved with conditions, or denied by the Board of Adjustment in accordance with Section 2.4.7(C), Zoning variance permits.

(Ord. No. 09-29, § 3(10.2), 9-28-2009; Ord. No. 12-04, § 5, 12-12-2011; Ord. No. 12-06, § 3, 1-23-2012; Ord. No. 13-15, § 2, 11-4-2013; Ord. No. 16-04, § 3(Exh. A), 4-11-2016; Ord. No. 18-01, § 3(Exh. A), 10-23-2017; Ord. No. 18-05, § 3(Exh. A), 2-12-2018; Ord. No. 18-08, § 3(Exh. A), 4-9-2018; Ord. No. 19-05, § 3(Exh. A), 1-14-2019; Ord. No. 19-22, § 3(Exh. A), 3-25-2019; Ord. No. 19-25, § 2(Exh. A), 5-20-2019; Ord. No. 19-31, § 3(Exh. A), 7-22-2019; Ord. No. 20-08, § 3(Exh. A), 7-27-2020; Ord. No. 22-01, § 3(Exh. A), 10-11-2021; Ord. No. 22-12, § 3(Exh. A), 5-23-2022)

Appendix A - FRANCHISES

ARTICLE I. - IN GENERAL

Sec. 1. - List of agreements and franchises.

The following franchises have been granted by the city that have not been published in the Code.

Ord. No. O-80-1, adopted November 19, 1979, as amended Ord. No. O-95-16, adopted April 17, 1995. Grants cable television franchise to Micanopy Cable T.V., Inc., expiring April 20, 2011.

Res. No. R-00-87, adopted June 21, 2000. Grants 20-year cable television franchise to Coxcomm, Inc. dba Cox Communications Gainesville/Ocala.

Ord. No. O-96-21, adopted September 4, 1996. Grants 30-year electric franchise to Clay Electric Cooperative, Inc.

Ord. No. O-96-20, adopted September 4, 1996. Grants 30-year electric franchise to Florida Power Corporation.

Ord. No. O-97-24, adopted October 6, 1997. Grants 30-year electric franchise to Gainesville Regional Utilities.

Ord. No. O-97-25, adopted October 6, 1997. Grants 30-year natural gas franchise to Gainesville Regional Utilities.

ARTICLE III. - COMMERCIAL SOLID WASTE

DIVISION 1. - FRANCHISE CONTINUATION

ORDINANCE 10-14

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA; CONTINUING A NON-EXCLUSIVE COMMERCIAL FRANCHISE SYSTEM FOR THE COLLECTION OF SOLID WASTE AND RECYCLABLE MATERIALS FROM COMMERCIAL PROPERTIES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, a current system exists to operate a non-exclusive commercial franchise system for the collection of solid waste and recyclable materials from commercial properties;

WHEREAS, the City adopted Ordinance 04-15 on February 18, 2004 to enact the non-exclusive franchise system for commercial haulers, and adopted Ordinance 06-20 to extend the non-exclusive franchise system through 2010;

WHEREAS, the City desires to continue this system;

NOW THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF ALACHUA, FLORIDA:

Footnotes:

--- (2) ---

Editor's note— Printed in this division is Ordinance No. 10-14, adopted July 26, 2010. 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. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings and catchlines has been used. Additions made for clarity are indicated by brackets.

Sec. 1. - [Effectiveness of terms and conditions of Ordinance No. 04-15.]

All terms and conditions of Ordinance 04-15 remain in full force and effect.

Sec. 2. - [Terms of each franchise.]

The term of each franchise shall commence on February 18, 2010 and shall extend until February 17, 2012, with an option to renew for another two-year term, unless forfeited or revoked sooner as provided herein. All franchises shall require completion of an application, which shall be valid for the term of the franchise. A franchise, once granted, may not be assigned or transferred without the express written approval of the City.

Sec. 3. - [Effective date.]

That this ordinance shall take effect immediately after its passage and adoption.

PASSED on first reading the 28th day of June 2010.

PASSED and ADOPTED, in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this 26th day of July 2010.

DIVISION 2. - FRANCHISE

ORDINANCE 04-15

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA, ESTABLISHING A NONEXCLUSIVE FRANCHISE SYSTEM FOR THE PROVISION OF CONTAINERS FOR, AND COLLECTION OF, SOLID WASTE AND RECYCLABLE MATERIALS FROM COMMERCIAL PROPERTIES; PROVIDING FOR FRANCHISE FEES; PROVIDING AUDITING AND REPORTING REQUIREMENTS; PROVIDING APPLICATION REQUIREMENTS; PROVIDING PROCEDURES FOR EITHER DENIAL OF APPLICATION AND SUSPENSION OR REVOCATION OF FRANCHISE; ADDING AN APPLICATION FEE FOR COMMERCIAL SERVICES FRANCHISE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Alachua finds that regulation of the provision of containers for, and the collection of, solid waste and recyclable materials from commercial properties will protect the health, safety and welfare of City residents; and

WHEREAS, in consideration for the granting of a franchise, the franchisee agrees to collect both solid waste and recyclable materials from commercial properties, or provide containers for both solid waste and recyclable materials from commercial properties, and

NOW THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF ALACHUA, FLORIDA.

Footnotes:

--- (3) ---

Editor's note— Printed in this division is Ordinance No. 04-15, adopted February 18, 2004. 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. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings and catchlines has been used. Additions made for clarity are indicated by brackets.

Sec. 1. - Definitions.

Commercial service shall mean the collection of solid waste, other than hazardous waste and biomedical waste provided to persons and establishments not receiving residential service.

Recyclable materials shall mean those materials which are capable of being recycled and which would otherwise be processed or disposed of as solid waste.

Residential service shall mean the refuse collection service provided to persons occupying residential dwelling units in buildings with four or fewer dwelling units within the City.

Applicant shall mean a person applying to the City for a franchise required to provide commercial service within the City for hire, remuneration or other consideration.

Collector shall mean a company who has been granted a franchise by the City to provide commercial service.

Commercial Service Container shall mean an industry-standard container constructed of nonabsorbent material, with a cover, made for mechanized pick-up, except for a roll-off container, without a cover, that is used for industrial waste and nonputrescible materials.

Commercial customer shall mean any person who receives commercial service.

Franchisee shall mean a person who has filed an application with, and received a franchise from, the City to provide commercial service.

Sec. 2. - General provisions.

- (a) It shall be unlawful to commence or engage in the business of providing containers for commercial service or providing commercial service to properties in the City without a franchise issued by the City in accordance with this Section. A franchise issued by the City under this Section shall not include Construction and Demolition (C&D) debris.
- (b) No franchise shall be awarded until the City determines that the franchisee is capable of complying with the requirements of this Section.
- (c) The term of each franchise in effect on September 30, 2016 shall be extended from October 1, 2016 to and including September 30, 2020 and action is here taken in advance to serve as and authorize automatic renewal for each succeeding fiscal year unless such automatic renewal is withdrawn for any future fiscal year by the City Commission adopting, by May 1 of any fiscal year, an Ordinance withdrawing and revoking such automatic renewal for the succeeding fiscal year. The term of any franchise granted on or after October 1, 2016 shall be from the date granted for a term consistent with the end of term plus extensions as described herein.
- (d) Each franchise shall be subject to the Charter of the City of Alachua and this Ordinance. Each franchise shall be subject to, and franchisee shall abide by, all present and future laws, regulations, orders of regulatory bodies, City code provisions and administrative rules applicable to the performance of the collection services hereunder. Each franchisee shall obtain all licenses and permits presently required by Federal, State and local governments, and as required from time to time.
- (e) Any franchisee providing solid waste collection services to commercial customers shall also offer recycling collection service in accordance with waste reduction/diversion mandates of State and local governments.
- (f) Each franchisee shall make available daily (except Sunday) collection of solid waste and recyclable materials. Collection shall begin no earlier than 6:00 a.m. and shall cease no later than 9:00 p.m., Monday through Saturday, except in areas of mixed residential and commercial occupancy, where collections shall begin no earlier than 7:00 a.m. and cease no later than 6:00 p.m., Monday through Saturday. The City Manager or designee may authorize collection on Sunday where special

needs of the customer make it necessary. In the event of an emergency, a franchisee may collect at times not allowed by this section, provided the City Manager grants prior approval, to be later evidenced by a written memorandum. If no written memorandum is obtained, there shall be presumption that the franchisee had not obtained prior approval.

- (g) Franchisee shall not be relieved of the obligation to promptly comply with any provision of the franchise by failure of the City to enforce compliance with the franchise.
- (h) The franchise granted hereunder shall not be exclusive. The City reserves the right to grant similar rights or franchises to more than one person or corporation as well as the right in its own name to use its streets for purposes similar to or different from those allowed to franchisees hereunder.
- (i) If a franchisee fails to perform its contract with any customer for longer than two weeks, the City may assign the work to another franchisee, who shall be entitled to receive the revenue from the customer for work performed that would have gone to the defaulting franchisee.
- (j) A franchisee shall respond to and, if feasible, resolve all complaints received by 12:00 noon on any business day by 5:00 pm of the same day and shall respond to and, if feasible, resolve all complaints received after 12:00 noon on any business day by 12:00 noon the next day.
- (k) A franchisee shall handle commercial service containers with reasonable care and return them to within six feet from the approximate location from which they were collected. A commercial franchisee shall clean up all solid waste spilled during the collection operation. If the franchisee determines that repeated spillage occurs as a result of an overloaded container, the franchisee shall notify the City in writing, and request the customer to obtain a larger size container, sufficient in size, to eliminate the spillage.
- (l) The City requires that all franchisees who provide commercial service containers, observe the following guidelines: 1) Each container must be kept painted in good condition at all times, unless the container is made of aluminum, stainless steel, or other similar materials that do not readily accept painting; 2) Every container will be clearly marked on the front of the container with the following information: name and phone number of commercial hauler, a serial or property control number; "No Parking", "Unauthorized Entry or Use Prohibited", and "Depositing of Flammable Liquids or Explosives Prohibited"; 3) Each container shall be free of rust holes, broken hinges or door fasteners and will have solid substantial bottoms with at least one drain hole for purposes of cleanout; 4) All containers will have properly fitting lids/covers and/or side doors, except for containers used for storage of materials other than garbage, in which case, lids or covers may not be required if the City Manager or designee determines that it does not pose a threat to the health, welfare, or safety of the citizens, or cleanliness of the container site or adjacent community; 5) Containers shall not be filled to a height exceeding the level of the highest portion of the container body or rim; 6) Containers must be placed on private property and shall not be placed on either the travel portions of any sidewalk, pedestrian travel path, designated bicycle path, street, and alley within the City, or placed outside of areas designated for refuse containers on approved site plans, without prior authorization from the City Manager or designee.
- (m) A franchisee shall not be required to provide collection services when all appropriate disposal sites are closed or an emergency or imminent emergency exists, as determined by the City Manager or designee. Collections shall resume on the instruction of the City Manager or designee.
- (n) A franchisee shall not be deemed to be an agent of the City and shall be responsible for any losses or damages of any kind arising from its performance or nonperformance under its franchise. The franchisee shall defend at its own expense or reimburse the City for its defense, at the City's option, on any and all claims and suits brought against the City, its elected or appointed officers, employees, and agents resulting from the franchisee's performance or nonperformance of

service pursuant to franchise.

- (o) Each franchise shall establish and maintain a presence within the political boundaries of the County of Alachua, in the State of Florida. A local telephone number where the commercial franchisee can be reached during and after business hours shall be given to the City Manager or designee.
- (p) To guarantee performance by the collector under the franchise, the collector shall post with the City two thousand five hundred dollars (\$2,500) in cash or the estimated amount of franchise fees for a three-month period, whichever sum is greater. This sum shall be placed in a non-interest-bearing account by the City. Such sum may be applied by the City to any default by the collector in the performance of the franchise. Upon the completion of the term of the franchise and compliance with all terms and conditions thereof, and upon revocation of a franchise, a collector shall be entitled to the return of such bond, without interest, less any sum applied to any default.

(Ord. No. 16-17, § 3, 9-26-2016)

Sec. 3. - Franchise fees.

- (a) The franchisee shall pay as compensation to the City, for the rights and benefits granted hereunder, a fee equal to eight percent (8%) of gross revenues from the providing of containers and the collection of solid waste from commercial properties under the franchise. For purposes of this calculation, gross revenues shall consist of all revenues from the sale or lease of containers, all revenues from solid waste collection services, late fees, bad debt recoveries and other fees collected from customers, with no deductions except for bad debts actually written off.
- (b) Compensation payments shall be due 20 days after the end of each month, accompanied by statements of gross revenues on forms prescribed by the City's Finance Department, and shall be paid directly to the City's Finance Department. Statements and remittances shall be accepted as timely if postmarked on or before the 20th day of the month; if the 20th day falls upon a Saturday, Sunday or Federal or State holiday, statements and remittances shall be accepted as timely if postmarked on the next succeeding workday. Payments not received by the due date shall be assessed interest at the rate of one and one-half percent per month compounded monthly from the due date.
- (c) All amounts paid shall be subject to confirmation and recomputation by the City. An acceptance of payment shall not be construed as an accord that the amount paid is in fact, the correct amount, nor shall acceptance of payment be construed as a release of any claim the City may have for further or additional sums payable.
- (d) Billing maneuvers that have the effect of reducing or avoiding the payment of franchise fees are expressly prohibited and will be cause for termination of the franchise.
- (e) Payment of this franchise fee shall not exempt the franchisee from the payment of any other license, fee, tax or charge on the business, occupation, property or income of the franchisee that may be imposed by the City.

Sec. 4. - Books, records and reporting requirements.

- (a) The City shall have the right to review all records maintained by a franchisee concerning its franchise on 30 days' written notice. Said records shall be retained for a three-year period and be readily accessible to the City.

- (b) Each franchisee shall file written monthly reports on forms prescribed by the City within 20 days after the end of each month with the City Manager or designee. The report shall contain an accurate statement of all receipts under the franchise from all sources, the quantities of solid waste and recyclable materials collected, and the number of routes and customer accounts for both solid waste and recyclable materials collection.
- (c) Each franchisee shall file an annual report including a schedule of total gross revenues as defined in Section 3a. This annual report shall be examined by an independent certified public accountant ("auditor") to certify that the computation of gross revenue used to calculate franchise fees remitted is in accordance with the terms of the franchise. The auditor's report shall state that the examination was performed in accordance with professional standards established by the AICPA and shall be filed with the City Manager or designee within 120 days of the franchisee's fiscal year end.

Sec. 5. - Application requirements.

- (a) Applications for a franchise hereunder shall be made to the City Manager or designee on such forms and in such manner as prescribed by the City. Said forms will require, at a minimum, the following information to be accompanied by supporting documents and any such other information as may be required by the City:
 - (1) If the applicant is a partnership or corporation, the name(s) and business address(es) of the principal officers and stockholders and other persons having financial or controlling interest in the partnership or corporation; provided, however, that if the corporation is a publicly owned corporation having more than 25 shareholders, then only the names and business addresses of the local managing officers shall be required.
 - (2) The applicant for a permit under this section, if an individual, or in the case of a firm, corporation, partnership, association or organization, and any person having any controlling or managerial interest herein, may be required to provide criminal histories, if requested by the City Manager or designee.
 - (3) A statement whether such applicant operates or has operated a solid waste collection business in this or any other state or territory under a franchise, permit or license; and if so, where and whether such franchise permit or license has ever been revoked or suspended and the reasons therefor.
 - (4) If applicant is a corporation, applicant shall submit proof that the corporation is in good standing in the State of incorporation and, if not a Florida corporation, applicant shall provide information certifying that applicant is qualified to do business in the State of Florida. If applicant is other than a corporation and is operating under a fictitious name, applicant shall be required to submit information that such fictitious name is registered and held by applicant.
 - (5) The applicant for a franchise shall possess equipment capable of providing safe and efficient services. In making such a determination and approving the method of operation for each applicant, the City Manager or designee shall require submittal of a list of the type, number and complete description of all equipment to be used by the applicant for providing service pursuant to this section. The franchisee shall provide an updated list each year as part of the annual report required in Section 4c above. The City Manager or designee may conduct an inspection of all equipment utilized in providing the services as outlined in the franchise.
 - (6) The applicant shall maintain in full force and effect insurance as specified herein for all policies written in the applicant's name. A comprehensive general liability policy shall be maintained in an amount not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage. This policy must also cover premises and/or operations, independent contractors, products and/or completed operations. A comprehensive automobile policy shall

be maintained in an amount not less than \$1,000,000 per occurrence combined single limit for bodily injury and property damage. This policy must also cover owned vehicles, hired and nonowned vehicles. A worker's compensation policy shall be maintained in statutory limits in accordance with Florida law.

- (7) The certificates of insurance shall be filed by the applicant, in the office of the City Manager or designee, and shall remain on file so long as the franchisee operates a franchise.
- (8) The applicant shall pay the City a nonrefundable application fee as prescribed in Section 6 at the time application is filed with the City Manager or designee.
- (b) The applicant shall execute form PUR7058, SWORN STATEMENT UNDER Sec. 287.133(3)(a) FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES, including proper check(s) in the space(s) provided, and submit it with the application.
- (c) The applicant shall execute a Drug-Free Workplace Form in accordance with Florida Statutes 287.087 and submit it with the application.

Sec. 6. - Schedule of fees, rates and charges.

- (a) Application for commercial services franchise.
 - (1) Solid Waste Collection and Disposal Services \$250.00.

Sec. 7. - Denial of application; suspension or revocation of franchise; right of appeal.

- (a) The City Manager or designee shall be responsible for granting, denying, suspending, or revoking a franchise. The basis for such actions may include, but is not limited to the failure to meet the requirements of this article; violation of any of the provisions of this article or any of the ordinances of the City, or the laws of the United States or the State of Florida, the violators of which reflect unfavorably on the fitness of the holder to offer solid waste and recycling collection services to the public.
- (b) Prior to denial, suspension or revocation, the applicant shall be given ten (10) days notice of the proposed action to be taken and shall have an opportunity to present to the City Manager or designee evidence as to why the franchise should not be denied, suspended, or revoked, within the ten-day period. The notice of intention of denial, suspension, or revocation shall be served upon the applicant or franchisee by registered mail or personal service.
- (c) Any applicant or franchisee whose franchise is denied, suspended or revoked by the City Manager or designee may appeal the decision to the City Commission. The appeal shall be taken by filing a written appeal, in duplicate, with the City Clerk within 10 days after the decision of the City Manager or designee to deny, suspend, or revoke the application or franchise. The City Manager or designee shall forthwith transmit copies of the appeal to the City Commission along with all papers constituting the record upon which the action appealed is based. The City Manager shall place the appeal on the agenda of the next regularly scheduled City Commission meeting which is not less than 10 days from the date of the filing of the appeal. The City Commission shall review the record and decide whether or not to uphold the decision of the City Manager or designee. The City Commission shall render its decision in writing within ten (10) days of the meeting and it shall constitute a final administrative action.

Sec. 8. - Severability.

It is the declared intent of the City Commission of the City of Alachua, Florida, that, if any section, subsection, sentence, clause, phrase or provision of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

Sec. 9. - Repealer.

All ordinances, or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed.

Sec. 10. - Providing an effective date.

This ordinance shall be effective immediately upon adoption by the Alachua City Commission.

PASSED on first reading this 2nd day of February, 2004.

PASSED and ADOPTED in regular session, with a quorum present and voting, by the City Commission, upon second and final reading this 18th day of February, 2004.

DIVISION 3. - FRANCHISE CONTINUATION

ORDINANCE 14-09

AN ORDINANCE OF THE CITY OF ALACHUA, FLORIDA; CONTINUING A NON-EXCLUSIVE COMMERCIAL FRANCHISE SYSTEM FOR THE COLLECTION OF SOLID WASTE AND RECYCLABLE MATERIALS FROM COMMERCIAL PROPERTIES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, a current system exists to operate a non-exclusive commercial franchise system for the collection of solid waste and recyclable materials from commercial properties; and,

WHEREAS, the city adopted ordinance 04-15 on February 18, 2004 to enact the non-exclusive franchise system for commercial haulers, and adopted ordinance 06-10 and ordinance 10-14 to extend the non-exclusive franchise system through 2014. Copies of such ordinances are published and found in the City of Alachua Code of Ordinances Appendix A - Franchises>> Article III >>Commercial Solid Waste; and,

WHEREAS, the City desires to continue this system.

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF ALACHUA, FLORIDA.

Footnotes:

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Editor's note— Printed in this division is Ordinance No. 14-09, adopted August 25, 2014. 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. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings and catchlines has been used. Additions made for clarity are indicated by brackets.

Sec. 1. - [General.]

All terms and conditions of Ordinance 04-15 remain full force and effect.

Sec. 2. - [Terms of each franchise.]

The term of each franchise shall commence on February 18, 2014 and shall extend until September 30, 2014, with an option to renew for another two-year term beginning October 1, 2014 and ending September 30, 2016, unless forfeited or revoked sooner as provided herein. All franchises shall require completion of an application, which shall be valid for the term of the franchise. A franchise, once granted, may not be assigned or transferred without the express written approval of the City.

Sec. 3. - Inclusion in the Code.

It is the intention of the City Commission of the City of Alachua, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Alachua, Florida; that the sections of this ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section", "article" or other appropriate designation to accomplish such intention.

Sec. 4. - Repealing Clause.

All ordinances or parts of ordinances in conflict with this ordinance are, to the extent they conflict with this ordinance, repealed.

Sec. 5. - Providing for Severability.

It is the declared intent of the Alachua City Commission that, if any section, sentence, clause, phrase, or provision of this ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by a court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance and the remainder of this ordinance, after the exclusion of such part or parts, shall be deemed to be valid.

Sec. 6. - Effective Date.

This Ordinance shall be effective upon its passage and adoption on the second and final reading.

PASSED on first reading on the 11th day of August, 2014.

PASSED and ADOPTED in regular session, with a quorum present and voting, by the City Commission, upon second and final reading on the 25th day of August, 2014.