

~~—(A) Two (2) street name signs shall be installed and maintained by the developer at all cross intersections on diagonally opposite corners, with one (1) sign at all “T” intersections on all private streets and installed prior to acceptance for maintenance of any public street by the city.~~

~~—(B) Street name signs shall be six (6) inches in width with lettering four (4) inches in height on six-tenths (0.60) inch anodized aluminum with silver reflective lettering on green Scotchlite, high-intensity reflective background or equivalent. Street name sign poles shall be two (2) inch galvanized-type supports set in concrete. Placement and location of street name signs shall be approved by the Police Department.~~

~~§ 179.032 SIDEWALKS AND BIKEWAYS.~~

~~—(A) Sidewalks and bikeways shall be required on all streets where such sidewalks or bikeways would:~~

~~—(1) Provide for the continuation of existing or proposed sidewalks and bikeways;~~

~~—(2) Provide for primary or secondary access to existing or proposed school site locations; or~~

~~—(3) Conform to an adopted sidewalk or bikeway plan.~~

~~—(B) Sidewalks shall be concrete, four (4) feet in width and four (4) inches thick (six (6) inches thick in driveways), and shall be constructed on both sides of all streets that meet the criteria in division (A) above. For developments consisting of one (1) acre lots in size or greater, sidewalks may be provided on one (1) side of the street.~~

~~—(C) Bikeway construction, design and signing shall meet the requirements of the current Florida Department of Transportation Bicycle/Pedestrian Design Standards, unless otherwise approved by City Engineer.~~

~~§ 179.033 ROADWAY SURFACING.~~

~~—For any block face with fifty percent (50%) or more of the platted lots being undeveloped, the road surface may be pulverized at the discretion of the City Engineer.~~

~~CLOSURE AND ABANDONMENT OF EASEMENTS AND DRAINAGE RIGHTS-OF-WAY~~

~~§ 179.045 POWER OF COUNCIL.~~

~~—The City Council, upon its own motion or upon request of the state or federal government, or upon the written petition of any person or persons owning property that abuts any public, dedicated or platted alley, easement, utility or drainage right-of-way located within the city limits may cause any alley, easement, utility or drainage right-of-way to be closed, abandoned, discontinued, vacated, altered, diverted, narrowed or amended.~~

~~§ 179.046 NOTICE OF HEARING.~~

~~—Before closing, abandoning, discontinuing, vacating, altering, diverting, narrowing or amending any public, dedicated or platted alley, easement, utility or drainage right-of-way or portions thereof, the City Council shall first hold a public hearing and ten (10) days' notice of the public hearing shall be given in writing to all persons whose property abuts upon the portion of the alley, easement, utility or drainage right-of-way affected by the proposed closing, abandoning, discontinuing, vacating, altering, diverting, narrowing or amendment. The notice shall be served by mailing a copy of such notice to each of such proposed owners, to be obtained from the records of the Tax Assessor or from such other sources as the City Clerk deems reliable. Proof of such mailing shall be made by an affidavit of the City Clerk or Deputy Clerk, the proof to be filed with the Clerk; provided, that failure to mail such notice or notices shall not invalidate any proceedings hereunder. Notice of the time and place of such hearing shall also be given by publication once in a newspaper of general circulation in the city and if there be no newspaper of general circulation published in the city, the City Council shall cause the notice to be published in a like manner in newspaper of general circulation published in the county; provided, that the publication shall be at least fourteen (14) days prior to the date of the hearing. The notice shall describe the alley, easement, utility or drainage right-of-way to be closed, abandoned, discontinued, vacated, altered, diverted, narrowed or amended and such service by publication shall be verified by the affidavit of the publisher of the newspaper and filed with the City Clerk.~~

~~§ 179.047 COUNCIL ACTION.~~

~~—After such public hearing, the City Council may thereafter by ordinance declare such closing, abandonment, discontinuing, vacating, altering, diverting, narrowing or amending of the alley, easement, utility or drainage right-of-way, of which notice was previously given as hereinbefore provided for, and such ordinance of the City Council closing, abandoning, discontinuing, vacating, altering, diverting, narrowing or amending any public, dedicated or platted alley, easement, utility or drainage right-of-way or portions thereof shall, to the extent to which it is closed, abandoned,~~

~~discontinued, vacated, altered, diverted, narrowed or amended, operate as a revocation of the dedication or acceptance thereof by the City Council, but the right-of-way and easement therein of any lot owner shall not be impaired thereby. Any action of the City Council, as herein authorized, shall be evidenced by an ordinance duly adopted and entered upon the minutes of the City Council.~~

~~§ 179.048 EFFECT ON UTILITY EASEMENTS.~~

~~Such closing, abandonment, discontinuation, vacation, altering, diversion, narrowing or amendment shall not in any manner affect utility equipment or services already installed in the alley, easement, utility or drainage right-of-way, or portion thereof, or the right to thereafter maintain and operate the equipment and services in the alley, easement, utility or drainage right-of-way, or portion thereof, during the term of the franchise under which the equipment and services were installed in the alley, easement, utility or drainage right-of-way, or portion thereof. The requestor or petitioner shall notify the applicable utility and service companies of the proposed closing, abandonment, discontinuation, vacation, altering, diversion, narrowing or amendment of the alley, easement, utility or drainage right-of-way, or portion thereof, and obtain a notarized letter from the utility and service companies stating the companies have no objections.~~

~~§ 179.049 APPLICATION; FEE.~~

~~Every application or petition filed with the city for closing, abandoning, discontinuing, vacating, altering, diverting, narrowing or amending any alley, easement, utility or drainage right-of-way, or portion thereof, shall be in writing and shall be accompanied by a filing fee as established by resolution pursuant to § 169.004, which fee shall be used for the expenses of legal notice and costs incidental in processing of the application or petition. This provision shall not apply when the city or one (1) of its agents is the requestor.~~

~~STREET NUMBERING AND NAMING~~

~~§ 179.060 DEFINITIONS.~~

~~For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~FRONT ENTRANCE. The principal access to a building or that area of a property which faces the public or private street or access way.~~

~~—GRID SYSTEM. A series of designated north-south parallel lines intersecting a second set of east-west parallel lines within one (1) square mile area (i.e., section), as indicated on the “official property numbering maps.”~~

~~—NUMBERING SYSTEM. A uniform method of assigning and coordinating the addresses of buildings and properties based on a designated grid system contained in the official “property numbering maps.”~~

~~—OCCUPANT. Any person, firm, entity, partnership, trust, corporation, association or other organization who is occupying or leasing a building or other property for a period exceeding thirty (30) days.~~

~~—OWNER. Any and all persons, firms, entities, partnerships, trusts, corporations, associations or other organizations who own the fee title to, or have an undivided interest in, any building or property which is subject to the provisions of this subchapter.~~

~~—PRINCIPAL BUILDING. In a residential district, any detached dwelling unit shall be considered a principal building. Each multiple-family unit shall be considered as a principal building. In a commercial or industrial district, any principal structure for private business or businesses shall be deemed to be the principal building on the property on which it is located.~~

~~—STREET. Any public or private way or other place used for travel to or from properties and principal buildings, including roadways and driveways in apartment, condominium, commercial or industrial complexes.~~

~~§ 179.061 UNIFORM NUMBERING SYSTEM.~~

~~—A uniform system of numbering properties and principal buildings, as shown on the map identified by the title “Property Numbering Map(s),” which is filed in the office of the City Planner, is adopted for use in the city. This map and all explanatory matter thereon is adopted and made a part of this subchapter.~~

~~§ 179.062 ASSIGNMENT OF NUMBERS.~~

~~—(A) All properties, parcels of land, and principal buildings within the corporate limits of the city shall hereafter be identified by reference to the uniform numbering system adopted herein, provided all existing numbers of property and buildings not now in conformity with provisions of this subchapter shall be changed to conform to the system herein adopted on June 1, 1984.~~

~~—(B) A separate number shall be assigned for each parcel or principal building regardless of whether mail is delivered to such parcel or building. Only officially~~

~~named public and private streets approved according to § 179.066 shall be used for the assignment of numbers.~~

~~—(C) Numerals indicating the official numbers for each principal building or each front entrance to such building shall be posted, in such a manner as to be clearly visible and distinguishable from the street on which the property is located. Such numerals shall be a minimum of three (3) inches in height and one-half (½) inch in width and of a contrasting color with the building. Principal buildings obtaining permit approval after the effective date of this subchapter shall post the address numerals before issuance of a certificate of occupancy.~~

~~—(D) Multiple-family units (including apartments, condominiums and townhouse dwellings) that access onto named private drives or public road rights-of-way shall be assigned four (4) digit numbers in which the first two (2) digits refer to the building number and the appropriate grid range, the third digit refers to the floor number, and the fourth digit, where feasible, indicates the side — north, south, east or west — of the street the unit is located. Odd numbers are assigned to the north and east sides of a street or drive and even numbers are assigned to the south and west sides. The first two (2) digits may also be assigned on the odd/even scheme just described. If it is foreseen that a possible duplication of numbers may occur on road rights-of-way where other structures can exist, one (1) number based on the appropriate grid range shall be assigned to each building. Each unit will then be assigned a three (3) digit number in which the first digit will indicate which floor the unit is located (e.g., 101, 201, 301).~~

~~—(E) Commercial and industrial buildings containing more than one (1) occupant shall be assigned one (1) number based on the appropriate grid range and the individual units shall be numbered consecutively in a logical fashion. Structures containing one (1) occupant shall be assigned one (1) number based on the appropriate grid range.~~

~~§ 179.063 ADMINISTRATION.~~

~~—(A) The City Planner or his designee shall be responsible for maintaining the numbering system.~~

~~—(B) The City Planner or his designee shall duly record all numbers assigned under this subchapter.~~

~~—(C) The City Planner or his designee shall assign to any property owner in the city or its immediate environs, upon request and without charge, a property number according to the provisions of this subchapter. Provided, however, that the City~~

~~Planner may issue additional property numbers in accord with the designated grid system whenever a property has been subdivided, a new front entrance opened, or undue hardship has been induced on any property owner.~~

~~—(D) Should an existing building have, exhibit or be addressed which does not conform with the uniform numbering system adopted herein, the City Planner or his designee shall give notice to those owners or occupants whose building number is in conflict with the uniform numbering system. The notice shall be delivered to the owner and occupant by regular U.S. mail, posting same in a conspicuous place on the building or property, or by hand delivery. The notice shall include a notification of a change of address which shall contain the new building or property number(s) assigned to the building or property in accordance with the provisions of this subchapter and shall direct the owner or the occupant to post the newly assigned building or property number on the building or property in accordance with the provisions of this subchapter.~~

~~§ 179.064 ANNEXATION.~~

~~—Whenever a parcel of land, a subdivision, or any part thereof, becomes a part of the incorporated area of the city by annexation or otherwise, it should be the responsibility of the City Planner or his designee to review the building (i.e., address) numbers of such property and determine whether such numbers for such annexed portion conform to the designated uniform numbering system established by this subchapter. If the number, posting, or method of numbering do not conform with the city's uniform numbering system, the City Planner or his designee shall give notice of such nonconformance to the owners or occupants of the affected building or property. Nonconformance includes, but is not limited to, a number out of sequence, odd or even number on the wrong side of the street and rural box numbers. The notice shall be delivered in accordance with and contain the information and directions in the provisions of § 179.063.~~

~~§ 179.065 NAMING OF COMMERCIAL AND INDUSTRIAL DEVELOPMENT.~~

~~—In order to avoid duplication for similar sounding names of commercial plazas, shopping centers, and industrial parks, proposed names referring to one (1) development or groups of uses shall be submitted to the office of the City Planner for review and approval.~~

~~§ 179.066 STREET NAMING GUIDELINES.~~

~~—(A) All street name and street name changes shall be approved by the City Council in cooperation with the E-911 Street Naming Office according to the~~

~~interlocal agreement between the city, and the Board of County Commissioners. All street names shall comply with the following guidelines unless specifically exempted by City Council:~~

- ~~— (1) No name duplication or similar sounding names are permitted.~~
- ~~— (2) Street names shall be pleasant sounding, easy to read, appropriate for type or character of the street and add to the pride of home ownership.~~
- ~~— (3) Alphabetical letters (i.e., A, B, C, and so on), unconventional spellings, frivolous or complicated names are unacceptable.~~
- ~~— (4) The appropriate quadrant designation “NE” (northeast), “SE” (southeast), “NW” (northwest), “SW” (southwest) shall be placed after the street name. Directional affixes in street name (for example, “East,” “West,” “North,” “South,” and the like) shall not be used.~~
- ~~— (5) No street name shall contain more than twelve (12) letters, excluding affixes such as boulevards, street, avenue, and the like. The developer or owner of a street not accepted by the city shall, within thirty (30) days of city approval of any street name change, replace or change any existing street name signs to reflect the new street name.~~
- ~~— (B) The City Council shall approve all street names or all renaming of existing streets during the subdivision process of recording plats or through ordinance.~~
- ~~— (C) The original naming of streets can be proposed by the City or the developer of the new street.~~
- ~~— (D) Renaming of streets may be initiated by:~~
 - ~~— (1) The City Council;~~
 - ~~— (2) Any city department or other governmental body;~~
 - ~~— (3) Any individual or group provided the following procedure is followed:~~
 - ~~— (a) Written approval must be obtained from a majority of the property owners on the street proposed for name change. Such majority shall be based on the number of individual properties addressed on the street; and~~
 - ~~— (b) The applicant must submit the written approvals required and an application for street name change to the Growth Management Department. As part of the application, the applicant shall identify the purpose of or need for the name change.~~

~~§ 179.067 VIOLATIONS.~~

~~—Upon the effective date of this subchapter (June 1, 1984), the owner or occupant of any building required to be numbered shall have thirty (30) days to comply with the provisions of this subchapter. If the owner or occupant of any building fails to meet these provisions, the City Planner or his designee shall serve upon him a notice requiring such owner or occupant to properly number his building(s), and if he neglects to do so for ten (10) days after the service of such notice, he shall be deemed to have violated this subchapter.~~

DRIVEWAY PERMITS

~~§ 179.075 DEFINITIONS.~~

~~—For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—CITY ROAD. All roads designated as city roads by Florida Statutes.~~

~~—CULVERT. Any structure not classified as a bridge which provides an opening under the driveway for the passage of storm water.~~

~~—CURB. A concrete border forming part of a gutter along the edge of a pavement.~~

~~—DRIVEWAY. A prepared path for a vehicle giving ingress or egress from a roadway to an abutting property line.~~

~~—DRIVEWAY PERMIT GUIDELINES. A document describing the process and providing drawings and illustrations, containing the technical specifications and details for the construction of driveways and related infrastructure in the public right-of-way.~~

~~—EASEMENT. A strip of land on or through property in which a right to utilize for access, drainage, sanitation, or other public use has been granted, including roads.~~

~~—GUTTER. A manmade channel for draining of stormwater at the edge of a pavement.~~

~~—PAVED. Provision of a surface that is smoothly graded, hard surfaced and adequately drained for vehicular use.~~

~~—PUBLIC WORKS DEPARTMENT. The Public Works Director of the Public Works Department of the city government or his/her designated representative.~~

~~—ROAD. Includes streets, sidewalks, alleys, highways, and other ways open to travel by the public, and includes all area within the right-of-way in which such ways are located, including easements.~~

~~—ROADWAY. The portion of a road providing the traveled way and the adjacent shoulders.~~

~~—SIDEWALK. A prepared path, usually paved, along the side of a road for the use of pedestrians.~~

~~—SWALE. A natural or manmade open drainage depression in which storm water may flow.~~

~~—SWALE DRIVEWAY. A driveway whose surface is depressed in elevation to form a swale.~~

~~§ 179.076 WHEN REQUIRED.~~

~~—No person, firm, corporation, or governmental agency shall construct, remove, alter, reconstruct, access the right-of-way temporarily or permanently, repair, or relocate any curb, culvert, sidewalk, driveway, gutter, pavement, or other improvement in any city road or easement without obtaining a driveway permit from the Public Works Department. When a driveway or other existing improvement has relocated, changed, or abandoned, making any portion or all of the driveway or other improvement unnecessary, the owner of the abutting property shall obtain a permit and shall remove the driveway or other improvement and shall, at his own expense, install or replace all necessary curbs, gutters, culverts and sidewalks.~~

~~§ 179.077 PERMIT PROCEDURE.~~

~~—(A) Application procedure. Application for a driveway permit shall be made to the Public Works Director or designee on forms provided. Each applicant shall provide the information and drawings specified on the permit application for the particular type of improvement. Additionally, each applicant shall be required to agree to maintain the constructed improvements and to hold the Council harmless for any liability arising from failing to maintain or from improperly maintaining the improvement.~~

~~—(B) Issuance of permit. Upon receipt of the application and drawings, the Public Works Director or designee shall review the application and determine compliance with the location, drainage, construction and traffic engineering requirements established by the Council and whether it is consistent with future development of the area and any plans for future expansion of the existing road. If the application~~

~~meets the applicable requirements, the Public Works Director or designee shall issue a permit to the applicant. The Public Works Director or designee may impose such conditions on permits as he/she deems necessary to ensure that the above described requirements are met using good engineering practices and in conformance with the Driveway Permit Guidelines. By acceptance of the permit, the applicant agrees to abide by all terms and conditions contained in the permit, in this subchapter, and in any other applicable regulations of the city. Permits shall expire at the end of ninety (90) days unless extended.~~

~~—(C) Construction procedure. Upon issuance of the permit to the applicant, the Pubic Works Department will furnish the applicant the pipe and grade specifications. Swale locations referenced to the property line shall be constructed as specified in the permit. Any deviations must be approved in writing by the Public Works Director or designee. Based on the stormwater management regulations set forth of §§ 174.050 et seq., the area fronting a proposed building site extending from the edge of the pavement to the property line shall be addressed as provided for in the Driveway Permit Guidelines~~

~~—(D) Fees.~~

~~—(1) The fees for issuance of a driveway permit in compliance with the driveway code shall be as established by resolution pursuant to § 169.004.~~

~~—(a) Expirations in excess of ninety (90) days require new application.~~

~~—(2) The fees as set forth in this section shall be increased by four percent (4%) (rounded to the nearest dollar) each fiscal year. Should any decrease in such fees be warranted in any given year, they shall also be decreased annually by that percentage that accurately reflects the reduction of permits requested and the specific and ascertainable resulting reduction in funds needed to pay the city costs to manage all services and time needed to issue and monitor the permits required by this section.~~

~~—(E) Bond. A performance bond, or other financial security approved by the City Attorney, may be required in the case where the specified work is incomplete and certificate of occupancy has been requested, or when damages to the right-of-way or any public property has been done and not repaired in accordance with good engineering practices or the Driveway Permit Guidelines, or when the work is nonconforming as determined by the Public Works Department. In addition to paying the fees established by the Council, a performance bond or other security approved by the City Attorney in the amount of one hundred dollars (\$100.00)~~

~~nonrefundable processing fee, plus two thousand dollars (\$2,000.00) retainer refundable upon completion of specified work within thirty (30) days. If the work in question exceeds a value of two thousand dollars (\$2,000.00), the bond amount shall be increased by the difference plus ten percent (10%). If said work is incomplete after thirty (30) days the bond will be forfeited. All such bonds or other security arrangements shall be on forms approved by the City Attorney. Such forms shall prescribe the manner in which noncompliance with the provisions of a permit or this subchapter shall be remedied, and shall provide the necessary financial assurances to remedy any non-compliance.~~

~~§ 179.078 SPECIAL CONDITIONS FOR RESIDENTIAL IMPROVEMENTS.~~

~~An owner of property who desires to construct a single-family residence accompanying driveway on his or her property may apply for a driveway permit simultaneously with the application for the residential building permit. If a driveway is necessary to provide access to the property, no certificate of occupancy can be obtained until the owner:~~

~~(A) Obtains a permit for the construction of the driveway pursuant to this subchapter and final approval thereof by the Public Works Department; and~~

~~(B) Agrees to complete construction of the driveway within ninety (90) days from the date the permit is issued. Failure to complete construction within such ninety (90) day period shall constitute noncompliance and void the permit.~~

~~§ 179.079 DESIGN AND CONSTRUCTION REQUIREMENTS.~~

~~(A) Compliance with law. All driveway improvements, as provided in this subchapter, shall comply with the applicable sections of the subdivision, zoning and building regulations of the city. Within all zoning districts, the improvements shall be constructed to city standards and specifications and approved prior to the issuance of a certificate of occupancy.~~

~~(B) Design standards. The Driveway Permit Guidelines and the specifications provided upon issuance of a permit will provide the technical specification providing for construction. Any deviations shall be approved in writing by the Public Works Director or designee. Approval shall not be unreasonably withheld providing such deviations conform to good engineering practices.~~

~~§ 179.080 RESTORATION OF DAMAGED AREAS.~~

~~Any person(s), firm, business entity, or corporation that damages property located on, under, across or along a right-of-way or easement or any city road or~~

~~other city improvement shall be required to either restore the damaged property to its condition prior to the damage or shall pay to the city the sum of money determined by the Public Works Department to be necessary to restore the damaged area to its condition prior to the damage. Any such restoration shall meet all construction and engineering standards of the city. Additionally, any permittee who has previously failed to restore the damage(s) as required by this subchapter shall not be issued further permits from the city until such damage is either restored and accepted by the Public Works Department, or the entire cost of restoration incurred by the city to make such restorations has been paid in full by the applicant. In the event discrepancies arise as to the responsibility for damage, the burden of proof shall be on the person or permittee to establish that the person or permittee is not responsible.~~

~~RIGHT-OF-WAY AND EASEMENT USE~~

~~§ 179.090 SHORT TITLE.~~

~~—This subchapter shall be known and may be cited as the “Right of Way and Easement Use Ordinance.”~~

~~§ 179.091 DEFINITIONS.~~

~~—For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—AASHTO. The American Association of State Highway and Transportation Officials.~~

~~—APPLICANT. Any person that is applying for a right of way use and easement permit.~~

~~—ARTERIAL ROAD ROW. The primary function of arterial corridors is to move moderate to large volumes of traffic relatively long distances. Arterials often connect widely separated rural and urban communities. Requirements for speed and level of service are usually quite high. Access should be well controlled, and where possible, limited to other arterials and collector roads. Arterials are used to move traffic around neighborhoods, and should form a continuous network designed for a free flow of through traffic.~~

~~—ASTM. The American Society for Testing and Materials.~~

~~—AS-BUILT. Site plans, other descriptions and drawings that are produced after the permitted improvement has been installed, placed, replaced or constructed and~~

~~is detailing the improvements exact location within a right-of-way or easement. For further details, refer to § 179.096(E).~~

~~—BUSINESS DAY. Every day except Saturday, Sunday and legal holidays of the city, the state, and/or the United States of America.~~

~~—CITY. The city, the City Manager or his designees.~~

~~—COLLECTOR ROADS. The connecting link between local streets and arterials to provide intra-neighborhood access. Traffic characteristics generally consist of relatively short trip lengths, moderate speeds and volumes. Access is of secondary significance, and should be limited to local streets, other collectors and major traffic generators. Collectors should penetrate neighborhoods without forming a continuous network, thus discouraging through traffic which is better served by arterials.~~

~~—DAMAGE. Any displacement, disturbance, or destruction, that injures, breaks, impairs or causes harm in any way to city property or other improvements that shall require repair or replacement to create a condition equal to or greater than the condition prior to the occurrence of the damage.~~

~~—DER. The Department of Environmental Regulation.~~

~~—DESIGN PLAN. Site plans, related descriptions and drawings that are produced before an improvement is installed, placed, replaced or constructed within a right-of-way or easement. For further details refer to § 179.096(D).~~

~~—DEVELOPED AREA. An area maintained and occupied by a commercial or private entity.~~

~~—EASEMENT. An interest in land granted, conveyed, dedicated, acquired for or devoted to ingress and egress of vehicular and pedestrian traffic.~~

~~—EMERGENCY. Any condition constituting an imminent or existing danger to life or property caused by nature, accident or wear and tear that results in an interruption of any public service, i.e., electrical, telecommunications, water, sewer, and the like, or that impedes the use of roads, streets, or other public rights-of-way and easements.~~

~~—EXCAVATION or EXCAVATE. Any operation in which earth, rock, or other material in the ground is moved, removed, or otherwise displaced by means of any tools, equipment, or explosives, and includes, without limitation, grading, trenching, digging, ditching, dredging, drilling, driving in, auguring, tunneling, scraping, tree and root removal, cable or pipe plowing, pile driving, wrecking,~~

~~razing, moving, or removing any improvement or mass of material, but does not include the tilling of the soil for agricultural purposes.~~

~~—FDOT. The Florida Department of Transportation.~~

~~—FRANCHISE. An initial authorization, or contracts, or renewal thereof issued by the city, whether designated as a franchise, permit, license, resolution, ordinance, contract, certificate, agreement or otherwise, that authorizes any person to use any right-of-way or easement.~~

~~—FRANCHISEE. A person who has been granted a franchise by the governing body of the city.~~

~~—IMPROVEMENT. Any physical changes made to land within rights-of-way and easements by placing streets, sidewalks, bicycle facilities, roadbeds, culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, guardrails, bridges, parks, squares, plazas, curbs, gutters, manholes, vaults, buried cables, conduit, wires, ground watering systems, water mains, sanitary sewer facilities, traffic control devices, street name signs, signs of any kind, security lights, street lights, landscaping, permanent control points (PCP), permanent reference markers (PRM), concrete monument reference markers, or any similar property owned and/or controlled by the city for public use. It shall include but not be limited to any aerial lines and underground lines that are designed to transport electric current, telecommunications, Community Antenna Television or any other service lines — and all appurtenances, pole lines, poles, railways, ditches, sewers, water, heat or gas mains, liquid transmission lines, pipelines, fences, gasoline tanks and pumps, duck banks, or conduit of any kind or other structures, hereinafter referred to as an improvement.~~

~~—LOCAL STREET. The primary function of a local street is to serve the adjacent property by providing initial access to the highway network. These facilities are characterized by short trip lengths, low speeds and small traffic volumes. Through traffic on these facilities should be discouraged. In addition to the above classifications, streets and highways may also be classified as “major” or “minor,” depending upon traffic volumes.~~

~~—MAINTENANCE. Activities that require a work effort to keep or maintain components of existing improvements in a safe and serviceable condition.~~

~~—OSHA. The Occupational Safety Health Act.~~

~~—PERMIT. See RIGHT-OF-WAY AND EASEMENT USE PERMIT.~~

~~—PERMITTEE. Any person having been granted a right-of-way and easement use permit by the city. The word PERMITTEE shall include all persons acting in behalf of the person to whom a permit has been issued.~~

~~—PERSON. Any individual, franchise, firm, joint venture, partnership, corporation, association, organization, business trust, municipality or other political subdivision, governmental unit, department, or agency, and shall include any trustee, receiver, assignee, or personal representative thereof.~~

~~—PUBLIC WORKS DEPARTMENT. The Public Works Department of the city and all of its divisions; also the Public Works Director and his designees.~~

~~—RIGHT-OF-WAY. An interest in land granted, conveyed, dedicated, acquired for city purposes, or devoted to vehicular and/or pedestrian traffic; this shall include but not be limited to land in which the state, county or city owns fee simple title, or has established any type of ownership thereof or interest in any land utilized by the city for vehicular and/or pedestrian traffic or other purposes.~~

~~—RIGHT-OF-WAY AND EASEMENT USE PERMIT. The document issued by the Public Works Department of the City of Palm Bay that authorizes permittees to install and construct improvements as described in this subchapter within rights-of-way and easements.~~

~~—UNDEVELOPED AREA. An area not maintained or occupied by either a commercial or a private entity.~~

~~§ 179.092 EXEMPTIONS.~~

~~—(A) It is not intended by this subchapter to repeal, abrogate, annul or in any way impede or interfere with existing provisions of other agreements and contracts, i.e., franchises. Where this subchapter imposes greater restrictions than is imposed or required by such existing provisions of the agreements and contracts, by ordinance, the provisions existing on the date they were entered into shall prevail.~~

~~—(B) Any person with an active franchise in full force shall be exempt from the right-of-way use permit fees.~~

~~§ 179.093 PROHIBITED USES WITHIN RIGHTS-OF-WAY AND EASEMENTS.~~

~~—In order to protect the health, safety and welfare of the citizens of the city, the city expressly reiterates and reinforces its authority to control and limit the use of the public rights-of-way and easements.~~

~~—(A) Rights-of-Way. Prohibited uses on any right-of-way within the city include, but are not limited to the following: mailboxes other than prescribed by the U.S.~~

~~Postal Service and the FDOT Roadway and Traffic Design Standards; decorative walls, retaining walls; barriers/ obstructions of any kind; construction materials (except for those construction materials intended for permitted use within the right-of-way and that are stored for a period of time not to exceed the duration of the permit); soils and/or debris of any kind; trees and shrubs (except as defined and outlined in the FDOT Highway Beautification and Landscape Management Rule, Chapter 14-40, F.A.C.) wells; recreational devices of any kind; sanitary facilities; benches; planters; unauthorized bus shelters; decorative statues; privately owned irrigation systems or irrigation systems not installed by a government entity, unless specifically approved by the Public Works Department; governmental or off-premises directional/guidance signs not permitted by law; any improvements for personal or private use, except in the case of approved private security lights, supplied and installed by a franchised electrical power company; the servicing or repairing of any vehicle except the rendering of emergency service and the storage of vehicles being serviced or repaired and the display of unauthorized advertising; except that any portion of a right-of-way may be used for an art festival, parade, fair or other lawful events if permitted by the city code of ordinances.~~

~~—(B) Easements. It is declared to be unlawful to install, place, locate or construct for personal or private use any improvement not intended for public use. Any improvement requiring a permanent foundation or which can not be readily removed shall also be declared unlawful.~~

~~§ 179.094 PERMIT — WHEN REQUIRED; NOT REQUIRED.~~

~~—(A) Required. A permit shall be obtained from the Public Works Department prior to installing, placing, constructing or replacing as described in this subchapter, any improvement within any right-of-way or easement, including but not limited to the following: all jack and bores regardless of bore method used; all poles, regardless of design use; all aboveground improvements that create an obstruction. All security lights and street lights shall require a permit but shall be exempt from the right-of-way and easement use permit fee.~~

~~—(B) Not required. A permit shall not be required for the following:~~

~~—(1) Driveways. Refer to §§ 179.075 et seq.~~

~~—(2) Franchisee. Only when the proposed improvement within the city right-of-way or easement meets all the following conditions:~~

~~—(a) Will not disturb any paved areas.~~

~~—(b) Will not disturb any other improvements in the area.~~

~~—— (c) Will not disturb vehicular or pedestrian traffic to any degree.~~

~~—— (d) Will not disturb an area larger than one hundred (100) square feet in any shape.~~

~~—— (e) Will not exceed a depth below grade of forty eight (48) inches, except utility poles.~~

~~—— (f) Will be restored to a condition as good as or better than existed before the effort. The disturbed soil will be stabilized with like sod in front of developed areas or seed and mulch in front of undeveloped areas.~~

~~—— (g) Underground service connection, when the trench width is twelve (12) inches or less.~~

~~—— (h) Is not a jack 'n' bore of any kind, regardless of intended method to be used.~~

~~—— (3) Work. When the effort of the proposed work will be confined within utility easements and not within rights of way and easements as defined in § 179.091.~~

~~§ 179.095 LIABILITY.~~

~~—This subchapter shall not be construed to create liability or hold the city responsible or liable for any damage to persons or property by reason of any inspection or reinspection. Neither the issuance of a permit nor the approval or disapproval of any installation authorized herein shall constitute any representation, guarantee or warranty by the city of any kind: nor shall the issuance of a permit or approval or inspection of any improvement create liability upon the city or any official, agent, representative or employee thereof. Additionally, the permittee shall be required to maintain improvements regardless of who installed, constructed, replaced, maintained or altered such improvements until such time as the improvement may be accepted by a governmental agency. By applying for a permit, the permittees acknowledge that they, and their subcontractors will hold the city harmless from any liability arising from failing to install, construct, replace, maintain or alter or from improperly installing, constructing, replacing, maintaining or altering the improvement until such time as the city may accept full maintenance responsibility for the improvement.~~

~~§ 179.096 PERMIT PROCEDURES AND REQUIREMENTS.~~

~~—Application for a permit shall be made to the public works department on forms provided. The application shall meet the following requirements:~~

~~—(A) Applicant. Shall be the owner or the person who has an affidavit by the owner granting said person to act on the owner's behalf, but not a subcontractor for the owner.~~

~~—(B) Permit time limitations.~~

~~—(1) In no case shall construction commence on any improvement within any public right of way or easement, including Public Transit Bus Stop Shelters, or off premises direction signs be placed before a permit is issued except in the case of an emergency as defined in § 179.091. A permit issued by the city shall be valid for a period of one hundred twenty (120) days from the date of issuance. If a period in excess of one hundred twenty (120) days is required because of the scope of work, approval shall be obtained in advance of the issuance of the permit and the permit validation period shall reflect such extension. A permit shall not be valid for more than one (1) year from the date of issuance, except in the case of:~~

~~—(a) Off-premises directional guidance sign permits which shall be valid for a period of sixty (60) months/five (5) years from the date of issuance;~~

~~—(b) Permits for public transit bus stop shelters which shall be valid for a period of one hundred and twenty (120) months/ten (10) years from the date of issuance.~~

~~—(2) After the issuance of the permit, the permittee shall notify the city a minimum of two (2) business days prior to commencing construction. This notification will allow for scheduling of inspections. If a road closing is required, the permittee shall submit with the permit application a maintenance of traffic (MOT) plan, to include all proposed road closings, with an expected time duration for each closing. Road closings shall require separate approval by the Public Works Department and a minimum of three (3) business days prior notification before the commencement or construction. If road closings are approved, the permittee shall follow protective measures as outlined in §179.098. Road closings of less than fifteen (15) minutes shall not require notification, although protective measures as outlined in §179.098.~~

~~—(C) Permit fee. (Also refer to § 179.092, Exemptions.) A nonrefundable fee shall be charged for the permit. The fee shall be in addition to all other fees for permits or charges related to any proposed construction or work. The fee schedule for a permit shall be as established by resolution pursuant to § 169.004.~~

~~—(D) Design plan. All applicants shall submit, with the permit application, a duplicate set of design plans folded to a size not to exceed eight and one-half (8½)~~

~~× fourteen (14) inches. The design plans shall describe the following: materials to be used, type, quantities, pipe, conduit or cable size; pipe schedule if applicable or wall thickness, use of pipe or cable (power with voltage, gas with maximum allowable operating pressure, and the like) and all other pertinent details. One (1) or more typical cross-sections and/or profiles and plan views adequately reflecting the location of the improvement shall be shown. In all cases, dimensions shall be referenced from the right-of-way or easement line in addition to any other dimensions that may be shown. All existing improvements located within the work area shall be shown. If proposed improvements involve only one (1) side of the right-of-way, only the existing improvements on that side of the right-of-way need to be shown. The minimum vertical clearance above or below the pavement and grade shall be shown. In all cases, permittees shall list all right-of-way and easement users that may be affected and notify each of them by providing a copy of the permit application and a schematic installation plan of the proposed improvement. A simple key map showing the location of the improvement along with the proper Port Malabar Unit number or subdivision name, which ever is applicable, shall be included. In addition to the above requirements, any proposed improvements that consist of any of the following shall require a design plan at a minimum scale of one (1) inch equals fifty (50) feet and all references to grade and drainage elevations shall be NGVD 1929. Elevations may be in NAVD 1988 if so designated on plans and must include a conversion factor to NGVD 1929.~~

~~— (1) A water or gas main six (6) inches or larger in diameter.~~

~~— (2) A sanitary force main six (6) inches or larger in diameter.~~

~~— (3) Electrical distribution line or telecommunication lines or community antenna television (CATV), cable plants when any have a cable or conduit size six (6) inches or larger in diameter.~~

~~— (4) Gravity sewer mains.~~

~~— (5) Improvements requiring a trench line excavation width larger than eighteen (18) inches.~~

~~— (E) As-built. The as-built site plan shall be at a minimum scale of one (1) inch equals fifty (50) feet and all references to grade and drainage elevations shall be NGVD 1929. Elevations may be in NAVD 1988 if so designated on plans and must include a conversion factor to NGVD 1929. As built shall include a plan view elevation and location of affected drainage swales, culverts, manhole rims, roads, curbs and any other similar improvements. As-built site plans shall be required for~~

~~any of the following circumstances and shall be supplied to the city prior to the permit expiration:~~

~~—(1) Water or gas main six (6) inches or larger in diameter.~~

~~—(2) Sanitary force main six (6) inches or larger in diameter.~~

~~—(3) Electrical distribution lines or telecommunication lines or community antenna television (CATV), cable plants with a cable or conduit size six (6) inches or larger in diameter.~~

~~—(4) Gravity sewer mains.~~

~~—(5) Improvements requiring a trench line excavation width larger than eighteen (18) inches.~~

~~—(F) Authorized signature. The city shall require any franchise user of the rights-of-way and easements to submit annually a list of authorized parties within their concerns who may sign the permits for the following fiscal year. This list shall include the position, printed name and demonstrated signature of each authorized individual.~~

~~—(G) Annual fee increase. The fees set forth within this section shall be increased by four percent (4%) (rounded to the nearest dollar) each fiscal year. Should any decrease in such fees be warranted in any given year, they shall also be decreased annually by that percentage that accurately reflects the reduction of permits requested and the specific and ascertainable resulting reduction in funds needed to pay the city costs to manage all services and time needed to issue and monitor the permits required by this section.~~

~~§ 179.097 DESIGN, MATERIAL, TESTING AND REPORTS.~~

~~—The purpose of this section is to specify the limits on open pavement cuts, to describe the improvement location zones within the right-of-way, to detail the improvement's minimum clearance and coverage requirements and also to specify accepted materials and testing methods to be used within the rights-of-way and easements.~~

~~—(A) Design requirements.~~

~~—(1) Location. Improvements shall be located as determined by divisions (a), (b), (c) and (d) below. In all cases, dimensions are to be referenced from the right-of-way line. The permittee may use additional references at his own discretion.~~

~~—— (a) Electric, telecommunications, and CATV cable plant improvements. Permittees may, at their own discretion but within the limits of this subchapter, locate electric, telecommunications and CATV cable plant improvements underground or aerial. The city encourages the use of rear and side property line utility easements and arterial and collector road rights-of-way for all aerial improvements. When aerial improvements are permitted within a road right-of-way, only one (1) side of the road right-of-way will be reserved for aerial improvements. Improvements may be allowed on the opposite side of the road right-of-way when the location is required. Where feasible and practical, street lights should be attached to existing poles that otherwise meet the city's criteria, thereby eliminating additional poles. Additional locational criteria for electric, telecommunications, and CATV improvements are provided in division (d).~~

~~—— (b) All aerial improvements shall be located in a zone between zero (0) and two (2) feet inside the road right-of-way line, except in cases where the concrete pole base exceeds two (2) feet in width. The additional size shall be accommodated if sufficient space is available. All underground improvements shall be located in a zone between zero and six (6) feet inside the road right-of-way line.~~

~~—— (c) Water, sewer and natural gas. All water, sewer and natural gas improvements located within a road right-of-way shall be installed underground. The location shall be in a zone between six (6) feet and ten (10) feet inside the right-of-way line.~~

~~—— (d) In cases where conflicts exist that would prevent the location of proposed underground improvements in the location zones provided for in divisions (a), (b), and (c) above, the following shall apply: If sufficient right-of-way width exists to provide for the proposed underground improvements to be located outside of the dedicated zones and excavation will not be required within five (5) feet of the edge of pavement, the proposed location shall be considered for approval. The final decision shall, in all cases be that of the Public Works Department and shall be binding on the permittee.~~

~~—— (2) Clearance. The minimum clearance requirements for installation of improvements shall be as follows:~~

~~—— (a) Aerial improvements shall have a minimum clearance of eighteen (18) feet above the road surface. Other governmental agencies or codes may require a greater clearance for certain applications. Such greater clearance requirements shall prevail. Traffic signalization improvements shall be exempt from the minimum~~

~~eighteen (18) foot clearance but shall require separate approval from the City Engineer.~~

~~—(b) Underground improvements shall be a minimum of thirty (30) inches below the existing grade. Any crossing or parallel installations of improvements to include storm drain culverts shall have a minimum separation of twelve (12) inches. Manhole tops, valve boxes and meter boxes shall be located no higher than existing grade. Where the construction specifications of any other governmental agency having jurisdiction over the permittee are more stringent than those of the city's, the more stringent requirements shall govern.~~

~~—(B) Material standards.~~

~~—(1) Nonpaved areas.~~

~~—(a) Back fill. Backfill materials shall be of AASHTO Specifications M 145, soil classification of A-3 or better. The materials shall be free of unsuitable materials such as muck, humus, peat, spongy material, roots, stumps, paving materials or concrete. Flowable fill may be used as backfill. Flowable fill shall meet or exceed the minimum standards as set forth in the Florida Department of Transportation 2000 Edition of Standard Specifications for Road and Bridge Construction, Section 121-Flowable Fill, Subsections 121-1 through 121-6, or the most current edition.~~

~~—(b) Seed. When excavation occurs in front of undeveloped areas, utilization of seed and mulch is permissible. When utilized, permanent type grass seed shall consist of a mixture of twenty (20) parts of Bermuda seed and eighty (80) parts of Pensacola bahia seed and shall be of common variety with a minimum pure seed content of ninety five percent (95%) with a minimum germination of eighty five percent (85%). Pensacola bahia seed shall have a minimum pure seed content of ninety five percent (95%) with a minimum germination of forty percent (40%) and a total germination of eighty percent (80%), including firm seed.~~

~~—(c) Mulch. Mulch shall be used with seed, as specified herein. Mulch shall be dry mulch which shall be straw or hay consisting of oat, rye, wheat straw, or of pangola, peanut coastal bermuda or bahia grass hay. Only undeteriorated mulch which shall be readily cut into the soil shall be used.~~

~~—(d) Sod.~~

~~1. When excavation, occurs in front of developed areas, the excavated area shall be sodded with the same type of sod as existed prior to excavation. If~~

~~no sod existed, seed and mulch as provided for in divisions (b) and (c) above shall be utilized.~~

~~2. In the event a discrepancy should arise as to the existence or nonexistence of sod prior to excavation, in all cases sod shall be used, at the permittee's expense.~~

~~(e) Watering. All affected areas either seeded or sodded shall be maintained and regularly watered to ensure eighty percent (80%) standing growth.~~

~~(f) Concrete. Any concrete that is removed shall be replaced with concrete that meets the minimum requirement of 3,000 psi, Class 1, concrete or shall be replaced by like construction and size, whichever is greater.~~

~~(2) Paved areas.~~

~~(a) Backfill. Backfill material shall be of AASHTO specifications M 145, soil classification of A-3 or better. The materials shall be free of unsuitable materials such as muck, humus, peat, spongy material, roots, stumps, paving materials or concrete. Flowable fill may be used as back fill. Flowable fill shall meet or exceed the minimum standards as set forth in the Florida Department of Transportation 2000 Edition of Standard Specifications for Road and Bridge Construction, Section 121-Flowable Fill, Subsections 121-1 through 121-6, or the most current edition. Base materials as specified herein shall be used in conjunction with flowable fill in all paved areas.~~

~~(b) Base materials. The following types of material are acceptable for base materials:~~

~~1. Limerock. Limerock shall be of Miami or Ocala formation. The composition of limerock materials shall consist of a minimum percentage of carbonates of calcium and magnesium to be seventy percent (70%). The maximum percentage of water-sensitive clay mineral shall be three percent (3%). The liquid limit shall not exceed thirty five percent (35%) and the material shall be nonplastic. Limerock material shall not contain cherty or other extremely hard pieces, lumps, balls or pockets of sand or clay-size material in sufficient quantity so as to be detrimental to the proper bonding, finishing or strength of the limerock base. Gradation requirements shall be that ninety-seven percent (97%) by weight of the material shall pass through a three and one-half (3½) inch sieve, and the material shall be graded uniformly down to dust. The fine material shall consist entirely of dust of fracture. All crushing or breaking up that might be necessary in order to meet such size requirements shall be done before the material is placed~~

~~on the road. Limerock base shall have an LBR value of not less than one hundred (100).~~

~~2. Cemented Coquina shell material. Cemented Coquina shall be defined as material from the Ariastasia Formation composed essentially of whole or broken shells, coral and the skeletal remains of other marine invertebrates which have been cemented together by carbonates, silicates or other natural cementing agents. The material shall not contain loose shell or silica sand in sufficient quantity to prevent proper bonding. Material that shows a significant tendency to slake or undergo chemical or physical change on exposure to weather will not be acceptable. The minimum percentage of carbonates of calcium and magnesium in the material shall be fifty percent (50%). At least ninety seven percent (97%), by weight, of the material shall pass a three and one half (3½) inch sieve. Not more than twenty percent (20%), by dry weight, of the material shall pass through two hundred (200) sieve by washing. The portion of the material passing the No. 40 sieve shall be nonplastic. The material shall have an LBR value of not less than one hundred (100).~~

~~(c) Prime coat. Prime coat shall be cut-back or emulsified asphalt. The permittee shall submit a current design that shall conform to the following specifications:~~

~~1. Cut-back asphalt. Cut-back asphalt shall be Grade RC-250 rapid-curing cut-back asphalt, conforming to the requirements of AASHTO M81 except that the penetration range shall be from 60–120 instead of 80–120.~~

~~2. Emulsified asphalt. Emulsified asphalt shall be Grade 55-1 conforming to the requirements of AASHTO [M]140 (for anionic) and M208 (for cationic).~~

~~(d) Tack coat. Tack coat shall be emulsified asphalt, Grade RS-2, SS-1 or SS-1H meeting the requirements of AASHTO M140 (for anionic) and M208 (for cationic) except that the viscosity requirements shall not apply.~~

~~(e) Asphaltic concrete. Asphaltic concrete for use as surface courses on city streets shall be Type S-1 or Type S-111, conforming to the 1986 FDOT Standard Specifications for Road and Bridge Construction (Supplemental Addition). The permittee shall submit a current design that shall conform to the above specifications prior to placement.~~

~~(f) Pavement markings. Striping materials shall be replaced with existing like material with prior approval by the Public Works Department.~~

~~—(C) Testing and reports — when required (Also refer to § 179.098(C) and (D). In unpaved areas, when trench widths are greater than twelve (12) inches and/or greater than forty-eight (48) inches below existing grade, testing reports shall be in full accordance with this subchapter. In paved areas, trenching of any kind shall be tested in accordance with this subchapter. All testing reports shall be by a qualified testing laboratory, both signed and sealed by the laboratory's Florida certified professional civil engineer. Reports shall be submitted to the Public Works Department in a timely fashion. Test reports shall be received by the city prior to the expiration of the permit. The expense for testing shall be borne by the permittee, and testing shall be done to the following specifications:~~

~~—(1) Back fill unpaved areas.~~

~~—(a) Moisture density relationships shall be in accordance with AASHTO T-180-86 for every material change.~~

~~—(b) In-place density shall be in accordance with AASHTO T-204-86 or T-238-86.~~

~~—(c) Testing shall begin at the improvement bed, if the bedding was disturbed. If the bedding was not disturbed and is suitable as a foundation to support the improvement, the first test shall begin at a maximum distance of twelve (12) inches above the improvement and continue in twelve (12) inch layers to the surface.~~

~~—(d) Tests shall be taken at a frequency of once every uninterrupted effort and twelve (12) inch layer of compacted material or once every two hundred (200) linear feet and twelve (12) inch layer of compacted material, whichever is the shorter distance.~~

~~—(e) Backfill around improvements such as manholes, inlets, and the like, shall be tested to a distance not to exceed five (5) feet away from the improvement in the manner prescribed in this section. All tests shall be representative of the entire compaction effort around the improvements.~~

~~—(f) Density test results shall be accepted on stabilized, nonyielding surfaces only.~~

~~—(g) Flowable fill may be used as backfill. Flowable fill shall meet or exceed the minimum standards as set forth in the Florida Department of Transportation 2000 Edition of Standard Specifications for Road and Bridge Construction, Section 121-Flowable Fill, Sections 121-1 through 121-6, or the most current edition.~~

~~——(2) Backfill paved areas.~~

~~——(a) Moisture density relationships shall be in accordance with AASHTO T-180-86 for every material change.~~

~~——(b) In-place density tests shall be in accordance with AASHTO T-204-86 or T-238-86.~~

~~——(c) Testing shall begin at the improvement bed to determine that the bedding was not disturbed and is a suitable foundation to support the improvements. Tests shall continue in twelve (12) inch layers to the bottom of the base material.~~

~~——(d) Trenching parallel with the road. Tests shall be taken at a frequency of once every uninterrupted effort and twelve (12) inch layer of compacted material or once every two hundred (200) linear feet and twelve (12) inch layer of compacted material, whichever is the shorter distance.~~

~~——(e) Trenching perpendicular to the road. Tests shall be taken at a frequency of once for each lane width of traffic and for each twelve (12) inch layer of compacted backfill.~~

~~——(f) Density test results will be accepted on stabilized, nonyielding surfaces only.~~

~~——(g) Flowable fill may be used as backfill. Flowable fill shall meet or exceed the minimum standards as set forth in the Florida Department of Transportation 2000 Edition of Standard Specifications for Road and Bridge Construction, Section 121-Flowable Fill, Subsections 121-1 through 121-6, or the most current edition. Base materials as specified herein shall be used in conjunction with flowable fill in all paved areas.~~

~~——(3) Base material.~~

~~——(a) Limerock bearing ratio (LBR) shall be tested in accordance with FDOT Florida Method (FM) 5-515 for LBR and FM 5-514 for carbonates. Sampling for the above tests shall be in accordance with FM 5-504. The minimum frequency for testing LBR and carbonates is one (1) test for each day's production and/or every material change.~~

~~——(b) Moisture density relationship shall be in accordance with FDOT FM 5-515 for every material change.~~

~~—(c) In-place density tests shall be in accordance with AASHTO T-204-86 or T-238-86. The testing shall occur for each six (6) inch layer of compacted base material for each lane width of traffic to the bottom of the asphaltic concrete.~~

~~—(4) Asphaltic concrete. Hot mix materials aggregate testing shall be for stability, extraction (bitumen content) and gradation at a minimum frequency of 1:00 a.m. and 1:00 p.m. for each day's work.~~

~~—(5) Concrete. Twenty-eight (28) day compressive strength test shall be in accordance with ASTM C-39 at a minimum frequency of one (1) set of four (4) cylinders and slump for each day's pour or for each fifty (50) cubic yards whichever is greater.~~

~~—(6) Fire hydrant installation. The following tests shall be submitted to the city after installation is complete: gallons per minute flow, static and residual pressure tests.~~

~~§ 179.098 CONSTRUCTION PROCEDURES.~~

~~—All work authorized by the permit shall be completed in accordance with the construction specifications as described in this subchapter. Where the construction specifications of any other governmental agency having jurisdiction over the permittee are more stringent than that of the city's, the more stringent requirements shall govern.~~

~~—(A) Protective measures and traffic flow.~~

~~—(1) Whenever any activity on a right-of-way is permitted, the permittee shall meet the requirements of the Florida Department of Transportation Manual on Traffic Controls and Safe Practices for Street and Highway Construction, Maintenance and Utility Operations (1989), the Manual on Uniform Traffic Control Devices (MUTCD), Section V, Construction and Maintenance, 1989 Revision, as published by the Federal Highway Administration. Other criteria shall be the 1989, T.T.C. 240 D, T.T.C. 250, published under the title of Guide for General Traffic Safety, International Municipal Signal Association and Institute of Transportation Engineers.~~

~~—(2) Permittees shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the project. Permittees shall also take all necessary safety measures to assure the safety of all employees on the project and other persons who may be affected by any construction. Permittees shall take all measures necessary to protect and prevent damage to any project materials or equipment to be incorporated into the project, whether in storage on~~

~~or off the site and other property or improvements at the site or adjacent thereto, including but not limited to trees, shrubs, lawns, drainage swales, walks, pavement areas, roadways, and/or any other improvements not designated for removal, relocation or replacement in the course of construction.~~

~~— (3) Permittees shall comply with all applicable laws, ordinances, rules, regulations and orders of any governmental agency having jurisdiction over permittees' activities. Permittees' duties and responsibilities for the safety and protection of the project shall continue until such time as all the work is completed and the permit is closed out. Refer to § 179.999.~~

~~— (B) Protection of adjoining or adjacent property and improvements. In performing the work authorized by the permit, permittees shall:~~

~~— (1) Keep all drainage improvements within the area of the construction free and unobstructed at all times. Permittees shall store, retain and take proper measures to prevent silt discharge, and the like, for all surplus water resulting from the work, in conformance with all current regulations and permits.~~

~~— (2) Sweep and clear all obstructions, dirt and debris of any kind from roadways, sidewalks, bike paths and other public thoroughfares daily.~~

~~— (3) Ensure that all excavations do not interfere with access to fire hydrants, fire stations, valve housings, emergency vehicles or other similar equipment that is vital to the safety, health and welfare of the citizens of Palm Bay.~~

~~— (4) Be required to use rubber-tired vehicles and not tracked vehicles, where necessary, to prevent damage to existing paved surfaces which would not otherwise be subject to repair or replacement as a direct result of construction, authorized by the permit. It shall be acceptable to place a minimum of two (2) inches of soil or rubber tire casings between the tracks and the paved surface to prevent damage.~~

~~— (5) Ensure that all excavated material retained on site be placed, removed or located so as not to endanger the safety of workers, pedestrians or traffic, and so as not to present an inconvenience to adjoining property or traffic. Permittees shall take measures to reduce noise, dust and unsightly debris.~~

~~— (C) Trenching — Unpaved Areas.~~

~~— (1) Length. The maximum allowable size of any trench to be opened in one (1) day is limited to the size of a trench that can be properly backfilled in accordance with the provisions of this subchapter during any one (1) day's work.~~

~~—(2) Cover. Underground installations shall be a minimum of thirty (30) inches below the existing grade. Any crossing or parallel installations of improvements to include storm drain culverts shall have a minimum separation of twelve (12) inches. Manhole tops, valve boxes, and meter boxes shall be located no higher than existing grade. When the construction specifications of any other governmental agencies having jurisdiction over the permittee are more stringent than those of the city's, the more stringent requirements shall govern.~~

~~—(3) Compaction. When improvements can be installed in a trench width of twelve (12) inches or less, and no deeper than forty-eight (48) inches below existing grade, a compactive effort shall be required; however no testing is required.~~

~~—(4) Width. When improvements are installed in trenches with a width of greater than twelve (12) inches and/or greater than forty-eight (48) inches below existing grade, the trench width shall be a minimum of the diameter of the improvement plus twenty-four (24) inches; that shall be twelve (12) inches on each side of the improvement. All compactive efforts and testing shall be required as specified in § 179.097(B), (C), and this division (4).~~

~~—(5) Unsuitable material below improvement. Wherever excavation of the trench exposes unsuitable materials, as described in § 179.097(B)(1)(a), in the bottom of the trench and is an unsuitable foundation upon which to lay or support the improvement, such unsuitable materials shall be removed. The trench shall then be backfilled and compacted to a density of ninety-five percent (95%) of AASHTO T-180-86, for each eight (8) inches of suitable material to the bottom of the improvement. The placement of three-fourths (3/4) inch rock gravel to the necessary depth may be used as an alternative to the above method.~~

~~—(6) Backfill. Only good quality backfill, as provided for in § 179.097(B)(1)(a), shall be used. All soft and yielding material and other portions of the subgrade which will not compact readily shall be removed and replaced with suitable material. Backfill shall be compacted in two (2) stages. The first stage of compaction shall be up to a point of one-half ($\frac{1}{2}$) the diameter of the improvement. The second stage of compaction shall start at a point one (1) foot above the improvement and continue in twelve (12) inch layers to the surface. Each layer's compaction effort from one (1) foot above the improvement shall achieve a minimum of ninety-five percent (95%) of maximum density in accordance with AASHTO T-180-86. Each layer shall be compacted to the required density and tested as provided for in this subchapter, prior to placing the next layer. Density~~

~~tests shall be accepted only on stabilized, nonyielding surfaces. Flowable fill may be used as backfill. Flowable fill shall meet or exceed the minimum standards as set forth in the Florida Department of Transportation 2000 Edition of Standard Specifications for Road and Bridge Construction, Section 121 Flowable Fill, Subsections 121-1 through 121-6, or the most current edition.~~

~~—(7) Removal and use of excavated material. All excavated soils from any project deemed suitable as fill material shall be utilized on the permitted project or delivered to a city facility designated by the public works department. All excavated soils deemed unsuitable shall be disposed of by the permittee at its own expense and in a lawful manner. If it is determined that the backfill material on site will not readily compact, it may be exchanged on a one for one (1:1) basis with suitable material. Proper records for this exchange shall be supplied to the city each day of the exchange.~~

~~—(8) Dewatering. Construction shall be accomplished in a dry trench. To maintain a dry trench, wellpointing or other approved methods of dewatering shall be carried out. When dewatering is necessary, a plan indicating the location and proposed system, i.e., length of points, size of headers, and the like, to be used shall be submitted to the Public Works Department for approval prior to installation. The proposal shall describe the points of discharge along with proposed siltation protection. No dewatering wellpoints shall be placed within five (5) feet of the edge of pavement, except in the case of a permitted road cut. Restoration of wellpointing holes and voids shall be accomplished by hydraulic backfilling with clean sand and done in conjunction with the removal of the wellpoints.~~

~~—(9) Trench box and sheeting. A trench box or sheeting and shoring shall be used to protect the work site, to include but not limited to the preservation of the roads, adjacent property and improvements; also to protect the health, safety and welfare of all persons on site. All trench boxes, sheeting and shoring shall conform to current OSHA standards.~~

~~—(D) Trenching — paved areas. Trenching in paved areas shall be the same as division (C) above, with the following exceptions and additions:~~

~~—(1) Pavement cuts.~~

~~—(a) Pavement cuts are prohibited unless one (1) or more of the following conditions exist:~~

~~—1. Subsurface obstructions such as other existing improvements are in conflict;~~

- ~~———— 2. Existing conditions of the roadway will require reconstruction;~~
- ~~———— 3. The road is scheduled by the city for reconstruction within two (2) years.~~
- ~~———— (b) The final decision on all road cuts shall be made by the Public Works Department. When pavement cuts are permitted, the cuts shall be perpendicular to the edge of pavement; and construction methods are to be in accordance with this subchapter.~~
- ~~———— (2) Compaction. A compactive effort and testing shall be required in all paved areas. Also refer to § 179.097(B)(2).~~
- ~~———— (3) Backfill. Only good quality backfill as provided for in § 179.097(B)(2)(a) shall be used. All soft and yielding material and other portions of the subgrade which will not compact readily shall be removed and replaced with suitable material. Compaction shall begin on the first eight (8) inches of bedding backfill or on the exposed bottom to assure the bedding is suitable as foundation to support the improvement, and continue in twelve (12) inch layers to the bottom of the base material. Each layer of the compaction effort shall achieve a minimum of ninety-eight percent (98%) of maximum density in accordance with AASHTO T-180-86. Each layer shall be compacted to the required density and tested as provided for in this subchapter, prior to placing the next layer. Density tests shall be accepted only on stabilized, nonyielding surfaces. Flowable fill may be used as backfill. Flowable fill shall meet or exceed the minimum standards as set forth in the Florida Department of Transportation 2000 Edition of Standard Specifications for Road and Bridge Construction, Section 121 Flowable Fill, Subsections 121-1 through 121-6, or the most current edition. Base materials, as specified herein, shall be used in conjunction with flowable fill in all paved areas.~~
- ~~———— (4) Base material. The materials used shall be placed in accordance with § 179.097(B)(2)(b)1. and 2. The base course shall be placed to a minimum depth of twenty-four (24) inches, in six (6) inch compacted layers, below the asphalt surface course. The base backfill trench shall be forty-eight (48) inches wider than the limits of the backfill trench, twenty-four (24) inches on both sides. The compaction shall be in six (6) inch maximum layers. Compacted density shall not be less than ninety-eight percent (98%) of maximum density of a representative sample as determined by AASHTO T-180-86. Each layer shall be compacted to the required density and tested prior to placing the next layer. Density tests shall be accepted on stabilized, nonyielding surfaces only. The public works department shall reserve the right to substitute tests at random locations to verify compaction.~~

~~—(5) Prime coat. The materials used shall be placed in accordance with § 179.097(B)(2)(c)1. and 2. In paved areas, application of prime coat shall be on all exposed surfaces and joints prior to asphaltic concrete being placed; and the prime coat shall be applied at the rate of 0.1 — 0.15 gallons of emulsified asphalt per square yard and shall be applied thoroughly and uniformly with no excess. In no case shall asphalt be placed on any prime coat prior to that material's specified curing time.~~

~~—(6) Surface coat. The materials used shall be placed in accordance with § 179.097(B)(2)(e). The surface treatment shall not be less than one (1) inch thick or consistent with existing pavement thickness whichever is greater. Installation shall be on a continuous plane without humps or depressions. The asphaltic concrete shall exceed the base course by twenty four (24) inches, twelve (12) inches on both sides along neat sawcut lines.~~

~~—(E) Jack 'n' bore. Bore casings of any kind shall extend past the edge of pavement by a minimum of five (5) feet. The backfill in excavated bore pits within the rights-of-way and easements shall be compacted to a stabilized and nonyielding condition. The back-fill density shall be accomplished by a compaction effort in twelve (12) inch layers, starting with the first twelve (12) inch layer above the exposed bottom of the pit and the last compaction effort on this surface. No density testing shall be required unless requested by the Public Works Department.~~

~~—(F) Restoration. In performing the work authorized by the permit, permittees shall, at their own expense, restore and repair all adjacent property and improvements to a condition as good as or better than the condition that existed prior to the permittee's activities. Refer to § 179.097(B)(1)(b) through (e).~~

~~§ 179.099 EMERGENCY WORK.~~

~~—Nothing in this subchapter shall be construed to prevent any action deemed necessary for the preservation of life or property or for the immediate location of trouble in an improvement for the purpose of making emergency repairs, as defined in § 179.091.~~

~~§ 179.100 PRESERVATION OF MONUMENTS.~~

~~—It shall be unlawful for any person to remove, alter or destroy, cause to be damaged, removed, altered or destroyed, any monument, stake or other distinctive mark placed or made to establish boundaries of section corners, quarter section~~

~~corners, quarter-quarter section corners or points marking street or property lines on or within the city limits.~~

~~§ 179.101 COSTS INCURRED — PAYMENT.~~

~~— Payment of all costs incurred by permittees to install, construct, reconstruct, repair, maintain, alter, remove, relocate, and test, or any other costs incurred by the permittees, shall be the sole responsibility of the permittees, subject only to any applicable rules and regulations of the Florida Public Service Commission, and shall not be charged against the city, or any of its citizens. If it is necessary to relocate a city-maintained improvement, prior written approval from the public works department shall be required. All associated costs shall be borne by the permittee. The city has the right to require any improvement not in use to be removed or filled with suitable material. Improvements that are not in use shall be removed if the right-of-way or easement is needed for other city improvements.~~

~~§ 179.102 INTERPRETATION OF DISCREPANCIES.~~

~~— Where discrepancies exist between the city and persons or permittees, the Public Works Director or his designees shall have the power of interpretation to execute a final judgment.~~

~~§ 179.103 PRIMA FACIE EVIDENCE OF VIOLATION.~~

~~— It shall be prima facie evidence that the owner of the property abutting the unlawful improvement(s) is responsible for any violation(s) of this subchapter. It shall not be a defense to any violation(s) that the violation(s) was caused by a predecessor in title, or prior property owner or prior tenant.~~

~~§ 179.104 DUTY TO REMOVE UPON NOTICE BY CITY.~~

~~— Violation(s) of this subchapter shall be corrected, remedied and/or removed within the time set by the city, but in no event later than thirty (30) days of written notice to the owner or occupant of any premises.~~

~~§ 179.105 REMOVAL AND DISPOSAL BY THE CITY UPON FAILURE OF OWNER TO REMOVE; COSTS.~~

~~— If a violation(s) is not removed within thirty (30) days of receipt of written notice, the city shall remove and dispose of same without further notice. The cost of removal and disposal thereof shall be charged to the owner or occupant of the premises of the violator. If said costs are not paid within thirty (30) days, a lien in the amount of the costs together with fees and costs incurred by the city will be recorded against the property in the Public Records of Brevard County, Florida.~~

~~§ 179.106 REMOVAL AND DISPOSAL OF UNLAWFUL IMPROVEMENTS WITHOUT NOTICE TO OWNER.~~

~~—In the event a violation(s) of this subchapter occurs and the violator/installer cannot be ascertained, the improperly placed item will be removed and disposed of by the city. Should the violator be determined at a later time, all costs of removal and disposal shall be charged to the said person(s).~~

~~§ 179.107 RESTORATION OF DAMAGED AREAS.~~

~~—Any person(s), firm, business entity, or corporation that damages property located on, under, across or along a right-of-way or easement or any city road or other city improvement shall be required to either restore the damaged property to its condition prior to the damage or shall pay to the city the sum of money determined by the Public Works Department to be necessary to restore the damaged area to its condition prior to the damage. Any such restoration shall meet all construction and engineering standards of the city. Additionally, any permittee who has previously failed to restore the damage(s) as required by this subchapter shall not be issued further permits from the city until such damage is either restored and accepted by the Public Works Department, or the entire cost of restoration incurred by the city to make such restorations has been paid in full by the applicant. In the event discrepancies arise as to the responsibility for damage, the burden of proof shall be on the person or permittee to establish that the person or permittee is not responsible.~~

~~GOLF CARTS~~

~~§ 179.110 SHORT TITLE.~~

~~—This subchapter shall be known and may be cited as the "Golf Cart Ordinance."~~

~~§ 179.111 LEGISLATIVE INTENT.~~

~~—It is the intent of this subchapter to permit and regulate the use of golf carts upon roads, streets, and sidewalks within the City of Palm Bay. To maintain and protect the safety of residents of the City of Palm Bay. To abide by the restrictions of F.S. §§ 316.008, 316.212 and 316.1995 (2020), as amended from time to time. To provide guidelines to be considered by the Florida Department of Transportation FDOT for the approval of State highway crossings from City streets.~~

~~§ 179.112 APPLICABILITY.~~

~~—This subchapter shall only be effective on streets and roads in a golf cart community within the City of Palm Bay, Florida and approved State highway crossings intersecting Palm Bay roads or streets only.~~

~~§ 179.113 DEFINITIONS.~~

~~—For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—ALL TERRAIN VEHICLES/OFF-ROAD VEHICLES (ATVS). Any motorized off-highway vehicle fifty-five (55) inches or less in width which has a dry weight of fifteen hundred (1,500) pounds or less, is designed to travel on three (3) or more nonhighway tires, and is manufactured for recreational use by one (1) or more persons. For the purposes of this section, ALL TERRAIN VEHICLE also includes a "two-rider ATV" as defined in F.S. § 317.0003 (see F.S. § 316.2074 (2020)).~~

~~—CONTROLLED INTERSECTION. An intersection where pedestrian and/or vehicular traffic are controlled by any standard uniform traffic control device, as determined by the Florida Department of Transportation (FDOT).~~

~~—DESIGNATED PEDESTRIAN CROSSING. That portion of a roadway at a controlled intersection distinctly indicated as a crosswalk for pedestrian crossing by striping or signage or other markings on the road surface or along the roadway.~~

~~—DESIGNATED STREET OR DESIGNATED ROADS. All streets or roads or portions of roads or streets upon which golf carts shall be allowed to operate, under the conditions as provided for herein.~~

~~—GOLF CART. A motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of twenty (20) miles per hour (reference F.S. § 320.01(22) F.S. (2020)). GOLF CART shall not be construed to mean low-speed or neighborhood electric vehicle.~~

~~—GOLF CART COMMUNITY. A residential, commercial, and/or mixed use subdivision or community within the City deemed safe and appropriate for the regulated use of golf carts as defined by the State of Florida Statutes. The application of this designation shall be reviewed by the City Engineer, and approved by the City Manager, and City Council. The community shall regulate and enforce safe operation of golf carts within the community.~~

~~—GRADE SEPARATED CROSSING. A tunnel or overpass designed and constructed for the purpose of crossing a street or highway.~~

~~—LOW-SPEED VEHICLE. Any four (4) wheeled vehicle whose top speed is greater than twenty (20) miles per hour but not greater than twenty-five (25) miles per hour, including, but not limited to, neighborhood electric vehicles. Low-speed vehicles must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers § F.S. 316.2122 F.S. (2020).~~

~~—SIDEWALK. That portion of a street between the curb line, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians F.S. § 316.003 F.S. (2020).~~

~~—STATE ROADWAY. Any roadway of the State highway system under the jurisdiction of the State except limited access facilities.~~

~~§ 179.114 OPERATION OF GOLF CARTS.~~

~~—(A) The operation of any golf cart on roads or streets outside a golf cart community within the City of Palm Bay is prohibited under the following conditions:~~

~~——(1) In violation of State, County, or City traffic regulations.~~

~~——(2) On streets or roads with speed limits greater than thirty-five (35) miles per hour unless the street or road is approved by the City Engineer for crossing only, and the golf cart crossing is located at an approved controlled intersection.~~

~~——(3) Golf cart use on sidewalks, and bicycle paths within a golf cart community is prohibited unless:~~

~~——(a) The City Engineer or designee reviews the character, condition, and current use of the surrounding community, speed of roadway(s) being crossed, location(s) of golf cart crossings, and that golf carts, bicycles, disabled, and able-bodied pedestrians can safely share the sidewalk. The Florida Department of Transportation shall review the Ordinance before adoption.~~

~~——(b) A minimum unobstructed sidewalk width of eight (8) feet is required and separated from back of curb, or edge of shoulder by at least five (5) feet is recommended, less may be considered on a case-by-case basis.~~

~~——(c) A minimum width of four (4) foot grassed or stabilized, relatively flat area should be provided beyond the outside edge of sidewalks for recovery or stalled golf carts.~~

~~——(d) Sidewalks with existing adjacent drainage features or fencing shall not be considered.~~

~~—(4) Golf cart use on streets or roadways without appropriate golf cart crossing signage (MUTCD W11-11) posted by the City of Palm Bay or within a designated golf cart community.~~

~~—(5) Operation of golf carts that are not equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.~~

~~—(6) Operation between the hours of sunset and sunrise unless the Florida Division of Motor Vehicles (DMV) certifies the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.~~

~~—(7) By minors, unless accompanied by an adult, and the golf cart is equipped with an operational horn.~~

~~—(8) Transporting more passengers than the number of passengers for which the golf cart was designed to carry or transporting any passenger who is not seated in a position intended by the golf cart manufacturer to carry a passenger.~~

~~—(B) Golf carts operated in compliance with subsection (A) above, shall be allowed to operate upon the streets, roads, State highway system and sidewalks designated for operation as follows:~~

~~—(1) Within golf cart communities. Which are defined within § 179.113 Definitions above, and on roads, and streets designated therein for golf cart usage. Each golf cart community shall provide signage and regulations for the use of golf carts on designating streets within golf cart communities where golf carts may be operated.~~

~~—(2) To cross designated City roadways with a posted speed limit greater than thirty-five (35) miles per hour.~~

~~—(3) Speed modified or 'hybrid' golf carts not conforming to the definition set forth above in § 179.113 Definitions above, are not authorized for streets within golf cart communities.~~

~~§ 179.115 GOLF CART CROSSINGS PROPOSED FOR DESIGNATED CITY STREETS OR ROADS WITH A POSTED SPEED LIMIT GREATER THAN THIRTY-FIVE (35) MILES PER HOUR.~~

~~—(A) Golf cart crossings shall be approved by the City Engineer or designee if each of the following criteria are met for each type of crossing:~~

~~—(1) Mid-block crossings: To be considered for a golf cart crossing at a mid-block location along any State road where a golf course or a single mobile home~~

~~park is constructed or located on both sides of the roadway, the proposed location and roadway characteristics shall meet the following criteria:~~

~~—— (a) Maximum vehicular volume of fifteen thousand (15,000) average daily traffic (ADT) or less along the roadway segment.~~

~~—— (b) Maximum posted speed limit of forty (40) miles per hour or less.~~

~~—— (c) Maximum number of lanes is three (3) with or without bike lanes.~~

~~—— (d) Maximum allowable median width is fifteen (15) feet or less.~~

~~—— (e) Minimum distance to the nearest driveway, access point, or pedestrian crosswalk is three hundred fifty (350) feet in each direction.~~

~~—— (f) Crossing along roadway tangents only with the nearest point of curvature at least three hundred fifty (350) feet in each direction.~~

~~—— (g) A clear and unobstructed view of the roadside on the approach to the crossing.~~

~~—— (h) Mid block crossing signing and pavement markings should be installed as shown in Figure 5.1-2.~~

~~—— (i) Golf carts are the only vehicle permitted to use the designated crossing or to traverse State right-of-way. Other vehicles such as low-speed vehicles are strictly prohibited. See F.S. § 320.01(42).~~

~~—— (2) The crossing is a side street controlled intersection meeting the following criteria:~~

~~—— (a) Side street maximum vehicular volume twelve hundred (1,200) ADT and AM/PM peak hour not to exceed one hundred ten (110) vehicles per hour single direction.~~

~~—— (b) Main street posted speed limit or eighty-fifth (85th) percentile intersection approach speed is thirty-five (35) miles per hour or less.~~

~~—— (c) Maximum crossing distance for undivided roadways shall be equal to three (3) lanes or less not including any right turn lanes, bike lanes, and crosswalks. For divided roadways of four (4) lanes, a minimum of twenty-two (22) feet median width is required.~~

~~—— (d) Side street approaches should have an exclusive left turn lane and a shared through-right turn lane. Other lane approach configurations will be considered on a case-by-case basis.~~

~~—(e) Side street intersection alignment shall be at a ninety (90) degree (not more than one hundred five (105) degrees) angle to the mainline tangent. Skewed or offset intersections are not permitted for golf cart crossings.~~

~~—(f) Approach stop signs and pavement marking shall be in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and FDOT Standard Plans Index No. 711-001.~~

~~—(3) Full signalized intersections: To be considered for a golf cart crossing at a roadway intersection with full signal control, the location along any City road shall meet the following criteria:~~

~~—(a) Side street maximum vehicular volume fifteen hundred (1,500) ADT and AM/PM peak hour not to exceed two hundred (200) vehicles per hour single direction.~~

~~—(b) Side street posted speed limit or eighty-fifth (85th) percentile intersection approach speed is thirty-five (35) miles per hour or less.~~

~~—(c) Maximum crossing distance equal to five (5) lanes or less not including any right turn lanes, bike lanes and crosswalks.~~

~~—(d) Side street approaches should have at least one (1) exclusive left turn lane and at least one (1) exclusive through or shared through-right turn lane. Other lane approach configurations will be considered on case-by-case basis.~~

~~—(e) Side street intersection alignment shall be a ninety (90) degree (not more than one hundred five (105) degrees) angle to the mainline tangent. Skewed or offset intersections are not permitted for golf cart crossings.~~

~~§ 179.116 GOLF CART CROSSINGS PROPOSED AT A LOCATION ON THE STATE HIGHWAY SYSTEM.~~

~~—(A) All requests for State highway golf cart crossings shall be submitted to the City's Growth Management Department and reviewed by the City Engineer or designee for submission to the appropriate Florida Department of Transportation (FDOT) District Traffic Operations Engineer (DTOE).~~

~~—(1) Only grade separated facilities shall be considered.~~

~~—(B) Shall meet each of the following mandatory criteria for the following types of crossings:~~

~~—(1) Mid-block crossings: To be considered for a golf cart crossing at a mid-block location along any State road where a golf course or a single mobile home~~

~~park is constructed or located on both sides of the roadway, the proposed location and roadway characteristics shall meet the following criteria:~~

~~—— (a) Maximum vehicular volume of fifteen thousand (15,000) average daily traffic (ADT) or less along the roadway segment.~~

~~—— (b) Maximum posted speed limit of forty (40) miles per hour or less.~~

~~—— (c) Maximum number of lanes is three (3) with or without bike lanes.~~

~~—— (d) Maximum allowable median width is fifteen (15) feet or less.~~

~~—— (e) Minimum distance to the nearest driveway, access point, or pedestrian crosswalk is three hundred fifty (350) feet in each direction.~~

~~—— (f) Crossing along roadway tangents only with the nearest point of curvature at least three hundred fifty (350) feet in each direction.~~

~~—— (g) A clear and unobstructed view of the roadside on the approach to the crossing.~~

~~—— (h) Mid block crossing signing and pavement markings should be installed as shown in Figure 5.1-2.~~

~~—— (i) Golf carts are the only vehicle permitted to use the designated crossing or to traverse State right-of-way. Other vehicles such as low-speed vehicles are strictly prohibited. See F.S. § 320.01(42).~~

~~—— (2) Side street stop controlled intersections: To be considered for a golf cart crossing at a roadway intersection with side street stop control, the location along any State road shall meet the following criteria:~~

~~—— (a) Side street maximum vehicular volume twelve hundred (1,200) ADT and AM/PM peak hour not to exceed one hundred ten (110) vehicles per hour single direction.~~

~~—— (b) Main street posted speed limit or eighty-fifth (85th) percentile intersection approach speed is thirty-five (35) miles per hour or less.~~

~~—— (c) Maximum crossing distance for undivided roadways shall be equal to three (3) lanes or less not including any right turn lanes, bike lanes and crosswalks. For divided roadways of four (4) lanes or less, a minimum of twenty-two (22) feet median width is required. See Figure 5.1-4.~~

~~—— (d) Side street approaches should have an exclusive left turn lane and a shared through-right turn lane. Other lane approach configurations will be considered on case-by-case basis.~~

~~—— (e) Side street intersection alignment shall be ninety (90) degree (not more than one hundred five (105) degrees) angle to the mainline tangent. Skewed or offset intersections are not permitted for golf cart crossings.~~

~~—— (f) Approach stop signs and pavement markings shall be in accordance with MUTCD and Department's Standard Plans, Index No. 711-001.~~

~~—— (g) Golf cart signs (W11-11) should be placed on the mainline approach.~~

~~—— (3) Full signalized intersections: To be considered for a golf cart crossing at a roadway intersection with full signal control, the location along any State road shall meet the following criteria:~~

~~—— (a) Side street maximum vehicular volume fifteen hundred (1,500) ADT and AM/PM peak hour not to exceed two hundred (200) vehicles per hour single direction.~~

~~—— (b) Side street posted speed limit or eighty-fifth (85th) percentile intersection approach speed is thirty-five (35) miles per hour or less.~~

~~—— (c) Maximum crossing distance equal to five (5) lanes or less not including any right turn lanes, bike lanes, and crosswalks.~~

~~—— (d) Side street approaches should have at least one (1) exclusive left turn lane and at least one (1) exclusive through or shared through-right turn lane. Other lane approach configurations will be considered on case-by-case basis.~~

~~—— (e) Side street intersection alignment shall be a ninety (90) degree (not more than one hundred five (105) degrees) angle to the mainline tangent. Skewed or offset intersections are not permitted for golf cart crossings.~~

~~—— (4) If available information reviewed by the FDOT supports a golf cart crossing. The FDOT would then require a full engineering study prepared by a State of Florida licensed engineer representing the requestor. The engineering study shall contain the following information:~~

~~—— (a) Document the need for a golf cart crossing based on conditions set forth in F.S. § 316.212, i.e., verifying the following:~~

~~—— 1. The intersecting City road has been designated for use by golf carts.~~

~~2. A golf course or single mobile home park is constructed on both sides of a State road.~~

~~(b) Document all safety considerations with respect to intersecting sight distances, proximity to intersection and driveway conflict areas, number and configuration of approach lanes to signalized intersections and roadway speed and volume thresholds as described in the above criteria.~~

~~(c) Document the proposed golf cart crossing and/or roadway segment location (Roadway ID and Ite Post) and corresponding signing, marking, and signal treatments (if applicable). A schematic layout should be provided over aerial photography or survey to show locations of signs, markings and other treatments in proximity to existing traffic control devices.~~

~~(d) Document all crash history within the vicinity of the proposed golf cart crossing based on a minimum of three (3) years data.~~

~~§ 179.117 OTHER PROHIBITED CONDUCT.~~

~~(A) ATVs nor low speed vehicles as defined in § 179.113 Definitions may not be operated on designated roads, streets, sidewalks, or bicycle paths.~~

~~(B) Golf carts shall comply with all applicable local and State traffic laws and may be ticketed for traffic violations in the same manner as motor vehicles.~~

~~§ 179.118 SIGNAGE.~~

~~The City Manager shall designate the department which shall post appropriate signs to indicate that operation of golf carts is allowed.~~

~~§ 179.119 INAPPLICABLE TO NEVS.~~

~~This subchapter shall not apply to neighborhood electric vehicles (NEVs) which have been sanctioned for on the road use by any State or federal law or rule which may be effective in the future.~~

~~§ 179.120 PENALTY AND ENFORCEMENT.~~

~~Any person who violates any provision of this subchapter shall, upon conviction, be guilty of an infraction pursuant to F.S. § 316.655, all as may be amended from time to time. Enforcement of this subchapter shall be pursuant to F.S. § 316.072 (2020), as may be amended from time to time. The City's Police Department shall have the authority to enforce the provisions set forth herein and applicable traffic laws, provided. However, that the enforcement of rules and regulations established~~

~~by golf cart communities shall be the sole responsibility of each community if the community remains private.~~

~~OFF-PREMISES DIRECTIONAL/GUIDANCE SIGNS~~

~~§ 179.200 SCOPE.~~

~~—(A) The standards for off-premises directional/guidance signs as described herein shall apply to public roads located within the boundaries of the city. Off-premise directional/guidance sign placement is limited to only those roads that meet the following classifications, described in the city's Comprehensive Plan as:~~

- ~~—(1) 4-Lane Arterial, Divided;~~
- ~~—(2) 2-Lane Arterial;~~
- ~~—(3) 4-Lane Collector, Divided;~~
- ~~—(4) 2-Lane Collector, Divided;~~
- ~~—(5) 2-Lane Major Collector;~~
- ~~—(6) 2-Lane Minor Collector.~~

~~—(B) The purpose of the off-premises directional/guidance sign is to identify a destination and guide motorists to a specific area. When used, the off-premises directional/guidance signs should have the lowest priority of all signs used in the public right-of-way or easement. A program of cooperation should be established between the city and other governmental agencies when a sign is to be placed within any state or county rights-of-way located within city boundaries.~~

~~§ 179.201 CLASSIFICATIONS.~~

~~—The off-premises directional/guidance signs shall be divided into three (3) classifications.~~

~~—(A) Recreational and cultural (brown sign). To provide directions to structures and sites that include but are not limited to: parks, libraries, sanctuaries, museums, etc.; areas of public interests that are typically attractions and traffic generators because they are open to the general public for the purpose of cultural, recreation, play, amusement or relaxation used to refresh the body or mind or for the training and refining of the mind, emotions, manners, vocal skills, taste, etc.~~

~~—(B) Non-profit (green sign). To provide directions to structures and sites that include but are not limited to churches, public schools/colleges, government agencies, fraternal and civic organizations, lodges, and areas of interest that are~~

~~targeted to specific groups and individuals that typically contribute to the betterment of the community and are not operated for monetary gain and are exempt for taxation.~~

~~—(C) Commercial (blue sign). To provide directions to structures and sites that provide on-premise parking spaces for one hundred (100) or more vehicles such as golf courses, industrial parks, residential subdivisions, businesses, private schools and areas of interests that are targeted to specific groups of persons who derive major portions of their incomes from such facilities and, as motorists, do not reside in the immediate areas; areas that attract large groups of persons who visit these areas for goods and services; large groups of persons who reside in these areas and, as motorists, derive major portions of their incomes outside of these areas; and large groups of persons who transport goods and services to and from these areas. The structures and sites are operated for monetary gain and are taxable entities. Residential subdivisions are included in this classification because of concentrated real estate sales and new construction.~~

~~§ 179.202 DESIGN STANDARDS.~~

~~—The off-premises directional/guidance sign shall meet the following standards:~~

~~—(A) Rectangular in shape.~~

~~—(B) The size of each individual sign blade shall be eight inches (8") by forty-eight inches (48").~~

~~—(C) Where multiple stacked signs are located, the bottom of the lowest sign should be seven feet (7') above the closest edge of pavement or above the top of the closest curb, whichever is applicable.~~

~~—(D) Single blade sign locations shall meet the same standards for height as the multiple stacked locations. Depending on the posted speed limit in the area and to provide for future sign attachments, the sign post's top or aerial height shall be initially adjusted to accommodate a total of three (3) or five (5) sign blades stacked as described herein.~~

~~—(E) In locations where the posted speed is less than 45 mph, the sign blades may be stacked five (5) high, not to exceed a maximum height of forty inches (40").~~

~~—(F) In locations where the posted speed is 45 mph and higher, the sign blade stacking shall not exceed three (3) high or a maximum height of twenty-four inches (24").~~

~~—(G) The background color code for each of the three (3) administrative sign classifications shall be as follows:~~

~~—(1) Recreational and Cultural—Brown;~~

~~—(2) Non-Profit—Green;~~

~~—(3) Commercial—Blue.~~

~~—(H) The directional arrow, mileage numbers, and lettering shall be white.~~

~~—(I) The style and size of the lettering should meet the following standards:~~

~~—(1) The lettering should be upper case and should be of the type provided for in the "Standard Alphabets for Highway Signs and Pavement Markings"; Federal Highway Administration, Highway and Transportation Officials-20, or similar and current approved publications.~~

~~—(2) The identifying destination lettering should be at least four inches (4") in height.~~

~~—(3) The mileage designation should be in letters and numerals at least two inches (2") in height.~~

~~—(4) The directional arrow should be four inches (4") in size and located uniformly on the left side on the sign or closest to the travel way.~~

~~—(5) The mileage designation should be centered directly below the directional arrow. The mileage designation should be shown to the closest one tenth (1/10) of a mile (Example: 0.2 mi.).~~

~~§ 179.203 SIGN LOCATIONS.~~

~~—(A) The off-premises directional/guidance signs should be located at least two hundred feet (200') from the center line of the intersection or abutting right angle roadway except in the case of median placement, and shall not obstruct drivers' critical viewing of other traffic control devices. The location of other traffic control devices shall in all cases take precedence over the location of off-premises directional/guidance signs.~~

~~—(B) In locations where the posted speed is less than 45 mph, the sign post closest to the travel way should be located a minimum distance of ten feet (10') off the edge of pavement or four feet (4') behind the face of a type "F" curb, as defined in the Florida Department of Transportation Roadway and Traffic Design Standards (latest edition), Index 300. In all cases the location should be as close to the right-of-way line as is practical.~~

~~—(C) In locations where the posted speed is 45 mph and higher, the sign post closest to the travel way should be located a minimum distance of fourteen feet (14') from the edge of pavement. In all cases the location should be as close to the right of way line as practical.~~

~~—(D) Off-premises directional/guidance signs may not be located outside of a five (5) mile radius from the described destination.~~

~~—(E) Off-premises directional/guidance signs shall be limited to a maximum of three (3) off-premises directional/guidance signs per four-way intersection for any one (1) described destination. The total number of off-premises directional signs for any one (1) described destination should be six (6).~~

~~—(F) In all cases, the exact location and number of off-premises directional/guidance signs placed within the public road right-of-way shall be determined by the Public Works Department of the city in accordance with the standards set forth herein.~~

~~—(G) The number of off-premises directional/guidance sign locations will be limited and available locations will be permitted on a first come first serve basis. Permit application will be accepted on file with the city in chronological order to provide for rapid implementation in the event a permit is canceled or expires and a specific location becomes available. The city will make every reasonable effort to provide the number of signs and locations specified by the applicant up to the maximum allowed. In the event the city determines that it cannot totally comply with the applicant's request, the city will offer to place signs that meet the requirements and adjust the permit fees accordingly or, if possible, locate the signs at the next closest available location; applicant may, during the permit application review phase, choose to continue the process or withdraw the application.~~

~~—(H) During the term of the permit, in-place signs may be relocated or removed at any time should site conditions change and warrant such an action by the city. Any such modifications to the original permit application are at the sole discretion of the Public Works Department and may be accomplished with or without notice to the permittee, although every effort will be made to contact the permittee should such a condition exist. No refund or adjustment to the original permit fee shall be made in any case.~~

~~§ 179.204 PERMITTING.~~

~~—(A) When required. A Right-of-Way Use Permit shall be obtained from the Public Works Department to place off-premises directional/guidance signs within the public rights-of-way and easements.~~

~~—(B) Applicant. The owner or the legally authorized person of the destination described on a off-premises directional/guidance sign.~~

~~—(C) Permit fee schedule. A non-refundable fee shall be charged for every off-premises directional/guidance sign permit.~~

~~—(1) Permit application fee. A non-refundable application initial processing and design fee as established by resolution pursuant to § 169.004 shall be charged to the applicant and due in full at the time the application is presented to the Public Works Department for review. Application fees are non-refundable if applications are rejected by the city, canceled by the applicant, or for any reason an application becomes null and void. Applicants shall have sixty (60) days from the time the initial permit application is received by the Public Works Department to either pay for the approved permit in full or cancel the application. If no such action is taken by the applicant within the provided sixty (60) day period, the Off-Premises Directional/Guidance Sign Right-of-Way Use Permit application shall become null and void. Should any application become null and void, any approved locations shall be available to the next qualified applicant.~~

~~—(2) The permit fee structure for each sign blade up to the maximum allowed shall be as established by resolution pursuant to § 169.004.~~

~~—(D) Permit time limitation. In no case shall a sign be installed before a permit is issued. A directional/guidance sign permit issued by the city shall be valid for a period of sixty (60) months/five (5) years from the date of issuance.~~

~~—(E) If a permittee fails to successfully reapply for permitted locations by the permit expiration date, the location(s) will immediately become available to the next eligible applicant. It shall be the sole responsibility of the permittee to reapply for permitted location(s) in a timely manner.~~

~~—(F) Where discrepancies exist between the city and the applicant or the permittee, the Public Works Director or designee shall have the power of interpretation to execute a final judgement.~~

~~§ 179.205 ANNUAL FEE INCREASE~~

~~—The fees set forth in this section shall be increased by four percent (4%) (rounded to the nearest dollar) each fiscal year. Should any decrease in such fees be~~

~~warranted in any given year, they shall also be decreased annually by that percentage that accurately reflects the reduction of permits requested and the specific and ascertainable resulting reduction in funds needed to pay the city costs to manage all services and time needed to issue and monitor the permits required by this section.~~

~~§ 179.206 NON-CONFORMING SIGNS.~~

~~When non-conforming signs are identified, a bright colored sticker will be placed on the face of the sign in plain view of the public. The notification sticker will clearly state that the sign is not in compliance with the regulations and an appropriate phone number will be provided for additional information. The sticker will also identify the person placing the sticker and the date the sticker was affixed to the sign. The person placing the sticker will record the language on the sign, the location of the non-conforming sign, and the date the notification was affixed. A copy of these records will be forwarded from time to time to the Right-of-Way Use Permitting Section of the Public Works Department for permanent record. The language for the notification sticker shall be in substantially the following form:~~

~~—Notice to Owner!~~

~~This sign is not in compliance with the current Off-premises Directional/Guidance Sign Code and is considered a non-conforming sign. This sign shall be found in violation and may be removed without further notice on or about (date). Please contact the Right-of-Way Use Permitting Section of the Public Works Department as soon as possible (phone number).~~

~~§ 179.207 NO EXEMPTIONS.~~

~~No sign existing prior to the enactment date of this subchapter shall be exempt from the provisions of this subchapter.~~

~~§ 179.208 TIME SCHEDULE FOR IMPLEMENTATION OF REGULATIONS.~~

~~(A) The city will attempt to notify the potential and existing sign owners of the herein regulations. The notification methods to be used will include but not be limited to the following:~~

~~—(1) Newspaper, public notice advertisements;~~

~~—(2) Space Coast Government Television, "Scrolling Items" listed from time to time as the agenda allows;~~

~~—(3) Palm Bay publications.~~

~~—(B) To provide sufficient time for existing sign owners to conform to the regulations described herein, compliance shall be as follows from the enactment date of this subchapter:~~

~~—(1) All new signs shall comply to the regulations described herein;~~

~~—(2) Sign owners shall have one (1) year to remove or replace existing nonconforming signs without penalties;~~

~~—(3) Existing non-conforming signs remaining in the public rights-of-ways after one (1) year shall be found in violation of this ordinance as described herein. The nonconforming sign may also be removed by the city without notice to the owner and disposed of in a legal manner. It shall be the sole responsibility of the off-premises directional/guidance sign owner to obtain a Right of Way Use Permit as described herein.~~

~~—(4) Within sixty (60) days, the city will start identifying, in accordance with § 179.204.~~

~~§ 179.999 PENALTY.~~

~~—Any person(s), firm, business entity or corporation that violates any of the provisions of this chapter for which no other penalty is set forth shall be subject to the penalty provisions set forth in § 10.99 of the City of Palm Bay Code of Ordinances.~~

~~CHAPTER 180: TREES AND SHRUBBERY; LANDSCAPING~~

~~TREE PRESERVATION AND REMOVAL CODE:~~

~~PART 1. GENERAL PROVISIONS~~

~~§ 180.01 INTENT.~~

~~—(A) The city finds that trees provide many beneficial functions to man, including many environmental, aesthetic, and economic amenities. It is declared to be necessary to preserve trees as a means to:~~

~~—(1) Protect the value of lands and water quality;~~

~~—(2) Preserve community appearance; and~~

~~—(3) Assist climate control, soil stabilization, oxygen exchange, and noise and air pollution abatement.~~

~~—(B) These factors relate to the economy of the city and provide for the health, safety and welfare of residents and visitors of the city. It is the intent of this code~~

~~to provide for the preservation and protection and to regulate control over the removal, relocation, or destruction of trees.~~

~~§ 180.02 DEFINITIONS.~~

~~—For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—CLEARING. The removal of trees and brush from the land, not including the ordinary mowing of grass.~~

~~—CROWN. The main mass of branching of a plant above the ground.~~

~~—DBH (DIAMETER AT BREAST HEIGHT) or BREAST HEIGHT. Fifty-four (54) inches above the surface of the ground at the base of the plant or tree. in the case of a tree with multiple main stems, the diameter shall be the sum of the diameter of the stems.~~

~~—DRIP LINE. A vertical line running through the outermost portion of the tree crown extending to the ground.~~

~~—EXCEPTIONAL SPECIMEN. Those trees which have a DBH of eighteen (18) inches or more.~~

~~—MANGROVE.~~

~~—(1) Rooted trees and seedlings of the following species, but only when having a coastal or estuarine association:~~

~~—(a) Red mangrove (*Rhizophora mangle* L.)~~

~~—(b) White mangrove (*Laguncularia racemosa* Gaertn.)~~

~~—(c) Black mangrove (*Avicennia germinans* (L.) L.)~~

~~—(d) Buttonwood mangrove (*Conocarpus erecta* L.)~~

~~—(2) An assemblage of one (1) or more of the following species:~~

~~—(a) Black mangrove (*Avicennia nitida*);~~

~~—(b) Red mangrove (*Rhizophora mangle*);~~

~~—(c) White mangrove (*Languncularia racemosa*); and~~

~~—(d) Buttonwood (*Conocarpus erecta*).~~

~~—PROTECTED TREE. Any self-supporting wood plant which has a DBH of six (6) or more inches, and which is not otherwise exempted from this subchapter. For the purpose of this subchapter, all mangroves are declared to be protected trees.~~

~~In addition, all palms with at least four and one-half (4½) feet of clear trunk between the ground level and the lowest branch are declared to be protected trees.~~

~~—RESTORATION TREE. A nursery grown tree with a DBH of at least five (5) inches and a minimum height of fifteen (15) feet and a minimum crown width of ten (10) feet of a species approved by the City Planner.~~

~~§ 180.03 APPLICABILITY; PERMIT.~~

~~The terms and provisions of this subchapter shall apply to all lands lying within the city limits, including publicly owned lands, rights-of-way, and easements except as provided for in this subchapter. It shall be unlawful without first securing a permit from the Planning Division to remove, destroy, cut down or damage or cause the removal, destruction, cutting down or damage of any tree(s) as defined by this subchapter.~~

~~§ 180.04 EXCEPTIONS.~~

~~The following exceptions to this subchapter shall be permitted in the manner prescribed:~~

~~—(A) Trees may be removed without a permit on the following properties:~~

~~—(1) Bona fide agricultural uses, cultivation, or grazing lands;~~

~~—(2) Commercial plant nursery sites; and~~

~~—(3) Single-family and two-family lots with less than one (1) acre of area.~~

~~—(B) After notifying the Planning Director the following trees may be removed without a permit: Beefwood, Scaly-barked beefwood, Australian pine, Melaleuca, Brazilian pepper, Castor bean, Eucalyptus, Chinaberry, ear tree, and camphor tree.~~

~~—(C) In the event that any tree shall endanger health or safety, and require immediate removal without delay, on-site verbal authorization may be given by a City Planner to allow the removal of the tree without obtaining a written permit as herein required. Such verbal authorization shall later be confirmed in writing within seven (7) days' time.~~

~~§ 180.05 VIOLATIONS.~~

~~Each failure to comply with any of the provisions of this subchapter shall constitute an individual violation. The property owner, contractor and/or authorized agent shall be issued a violation notice and they shall then have a maximum of two (2) weeks to submit a restoration plan as described below. For projects that are~~

~~under construction, a stop-work order will be issued when applicable and the issuance of and certificate of occupancy for any attendant structure(s) will be withheld until the restoration plan is submitted and approved by the Planning Division. This restoration plan shall, where applicable:~~

- ~~—(A) Provide information as described in § 180.15.~~
- ~~—(B) Identify the appropriate preservation practices as described in § 180.18.~~
- ~~—(C) Identify the locations of new tree plantings to restore the site, providing:~~
 - ~~—(1) Each restoration tree shall be a minimum five (5) inch DBH trunk diameter nursery grown tree, and a minimum height of fifteen (15) feet and a minimum crown width of ten (10) feet, and the species shall be approved by the Planning Director.~~
 - ~~—(2) One (1) restoration tree as described above shall be shown for each six (6) inches of trunk diameter of those trees that were severely damaged, cut down or removed from the site.~~
 - ~~—(3) If the site has been cleared, and little evidence of the removed trees are present so as to determine the extent of the violation then it shall be assumed that eight (8) trees with six (6) inch trunk diameter existed per acre of disturbed area.~~
- ~~—(D) Provide irrigation system or method for the maintenance of the new trees.~~
- ~~—(E) Indicate a schedule for the restoration to occur which shall at the latest coincide with the final inspection for a site development where applicable or three (3) months where final inspections would not normally occur. If the restoration does not occur within the approved time schedule, each day of which the property is not in compliance shall constitute a violation of this subchapter and the violation shall be presented to the Enforcement Board for action.~~

~~TREE PRESERVATION AND REMOVAL CODE:~~

~~PART 2. TREE REMOVAL PERMIT~~

~~§ 180.15 APPLICATION — GENERAL PROVISIONS.~~

~~—Anyone desiring a permit to remove a tree or clear property as defined by this code shall perform the following application requirements:~~

- ~~—(A) Fee. Submit a fee to the Land Development Division as established by resolution pursuant to § 169.004.~~
- ~~—(B) Expiration of permit. Any permit issued hereunder shall remain valid for six (6) months and may be renewable for a second six (6) month period upon request to the Planning Director, provided such request occurs prior to the expiration date~~

~~of the initial permit. If a permit required by this subchapter has been issued in conjunction with an approved site plan, subdivision, or building permit, then such permit shall remain valid for the life of the approved site plan, subdivision or building permit unless any of these approvals expire, are revoked or suspended.~~

~~—(C) Renewal of permit. The Planning Director may require reapplication and full review in those renewal cases where site conditions have changed substantially from the date of issuance of the initial permit as a result of natural growth of trees and vegetation or high winds, hurricane, tornado, flooding, fire, or other acts of nature.~~

~~—(D) Site plan drawing(s). Submit a site plan drawing(s) to the Planning Division at a scale of no greater than one (1) inch equals fifty (50) feet (1" = 50') which clearly shows all of the following information drawn to scale:~~

~~—(1) Sites to ten (10) acres. The diameter at breast height, botanical, and common names of each tree as defined in this subchapter.~~

~~—(2) Sites above ten (10) acres. The diameter at breast height, botanical, and common names of each exceptional specimen tree or those trees required to be listed by the City Planning Division. General distribution/groupings of protected trees as defined in this subchapter can be shown on the site plan instead of individual trees. The scale of this drawing may be increased as per the City Planning Division.~~

~~—(3) All existing, and proposed site features, such as: structures, grading and drainage, pavements, easement, landscaping, utilities, streets, screening requirements.~~

~~—(4) Explanation of or code to identify those trees proposed to be removed and those to be preserved.~~

~~—(5) Details or notes explaining the methods for the preservation of those trees to remain.~~

~~—(6) Name, signature, address and telephone number of property owner and his agent, if applicable.~~

~~—(7) Legal description and address of property.~~

~~—(8) North arrow and scale.~~

~~—(9) Reason(s) for proposed removal of tree(s).~~

~~—(E) Identification of trees to be preserved. Identify all trees to be preserved on site with harmless bands, flagging, or other suitable markings. These shall correspond with the above site plan explanation in division (D)(4) above.~~

~~§ 180.16 REVIEW CRITERIA.~~

~~—The Planning Department shall review the tree removal request based on the following criteria:~~

~~—(A) The permit application shall be processed within seven (7) days, except that no tree removal permit shall be issued until the owner/developer has applied for a building permit and all pertinent subdivision and site plan reviews have been approved.~~

~~—(B) The signing of the certificate of approval on a subdivision plat and approved engineering drawings shall be considered as an issued permit under the terms of this subchapter. This shall only allow that clearing necessitated by the installation of the approved public improvements. However, tree preservation measures may still be required for exceptional specimens and trees within these areas after review in the field by the Planning and Engineering Departments.~~

~~—(C) Reasonable efforts shall be made on the property to save and design around existing healthy trees. Preservation of exceptional specimen trees may be required after review in the field by the Planning Director or his designee. However, this shall not reasonably restrict the development of a permitted use and shall not create an unsafe condition.~~

~~—(D) Effort shall be made to preserve enough trees on site so as to maintain the character of the existing tree coverage in the neighborhood based upon the number, type, size and distribution of trees.~~

~~—(E) Exceptional specimen trees approved to be removed shall be replaced with trees of the same species or other species as approved by the Planning Director. Replacement trees shall have a two (2) inch caliper and shall be a minimum of ten (10) feet overall height immediately after planting. One (1) replacement tree as described above shall be planted for each six (6) inches of trunk diameter of those exceptional specimen trees removed. In addition, all required trees as set forth in § 185.142, the off-street parking area landscaping requirements, shall have a one (1) inch caliper at planting.~~

~~—(F) Efforts shall be made to preserve specimen trees and those trees which are of significant historical, aesthetic, or ecological importance to a site and/or the city.~~

~~—(G) Efforts shall be made to preserve trees which are in required landscape areas or yards.~~

~~—(H) Efforts shall be made to select, design and locate permitted signs so that they do not necessitate the removal of trees.~~

~~§ 180.17 APPEALS.~~

~~—Any application for a tree removal permit that has been denied may be appealed pursuant to § 169.009 provided a written request is submitted to the Growth Management Director. Such appeal shall follow the procedures set forth therein.~~

~~§ 180.18 PROTECTION OF TREES TO BE PRESERVED.~~

~~—The property owner, developer, contractor, and/or authorized agents shall make every effort to protect those trees to be preserved during site preparation and construction. To this end, the following methods and procedures shall be followed:~~

~~—(A) The use of hand labor may be necessary to clear vegetation within the drip line of those trees to be preserved. This shall be determined by the City Planner at the time of barricading as described below.~~

~~—(B) Materials, machinery and soil shall not be placed within nor use the area within the drip line of any tree to be preserved.~~

~~—(C) Materials, wires, signs, or nails shall not be attached to any tree unless such materials are used to preserve the tree.~~

~~—(D) All felled material shall be promptly and carefully removed from the site in order to avoid potential damage to remaining trees and vegetation.~~

~~—(E) Visible barricades shall be erected around those trees to be preserved. These barricades shall be at the drip line of the tree(s) and no closer than ten (10) feet to the trunk of the tree.~~

~~—(F) All trees to be preserved, except palms, shall have their natural soil level maintained. Tree wells and/or retaining walls shall be provided where necessary to maintain the natural existing soil level. The design of these structures shall be approved by the Planning Director and shall generally be consistent with methods specified in Tree Protection Manual for Builders and Developers, published by the Florida Department of Agriculture and Consumer Services, Division of Forestry, latest edition.~~

~~—(G) All efforts shall be made through the grading and drainage plan to maintain the natural drainage to those trees to be preserved. Swaling and minor negative~~

~~grade changes should always be designed outside the drip line area as much as possible. Piping should be used where deep swales or ditches would require significant grade changes adjacent to trees to be saved. Trenching of any type should be avoided in the drip line area. Where underground installations are required adjacent to the trunks of trees to be preserved, tunneling should be used. When trenching or tunneling near trees to remain, protective measures should be taken as specified in Tree Protection Manual for Builders and Developers.~~

~~—(H) All trees not approved for removal shall be protected and maintained during construction, as specified in the Tree Protection Manual for Builders and Developers or other comparable publications approved by the Planning Division.~~

~~LANDSCAPING REGULATIONS FOR NEWLY DEVELOPED SINGLE- AND TWO-FAMILY RESIDENTIAL LOTS~~

~~§ 180.25 APPLICABILITY; PERMIT REQUIRED.~~

~~The terms and provisions of this subchapter shall apply to all single and two-family residential lots, as defined in the zoning regulations set forth in Chapter 185 of this code of ordinances, developed after the effective date of this subchapter. Every residential lot developed hereafter shall be provided with landscaping in accordance with the provisions set forth herein. Where a principal structure existed or was in the process of being developed at the effective date of this subchapter, the principal structure may be modernized, altered, or repaired without providing the required landscaping. All detached accessory structures to the principal structure are permitted to be developed, modernized, altered, or repaired without providing the required landscaping for new principal structures.~~

~~§ 180.26 GENERAL PROVISIONS.~~

~~The following minimum landscaping is required for newly developed single- and two-family residential lots:~~

~~—(A) Prior to the issuance of a certificate of completeness or a certificate of occupancy for newly constructed single- and two-family residences, the following number of trees and shrubs must exist or be planted on the lot:~~

~~—(1) Lots smaller than one (1) acre in size:~~

~~—(a) Four (4) trees; and~~

~~—(b) Ten (10) shrubs.~~

~~—(2) Lots larger than or equal to one (1) acre in size:~~

~~—(a) Six (6) trees plus two (2) additional trees for each one-half ($\frac{1}{2}$) acre above one (1) acre in size, up to a maximum of forty (40) trees.~~

~~—(b) Twenty (20) shrubs plus ten (10) additional shrubs for each acre above one (1) acre in size, up to a maximum of fifty (50) shrubs.~~

~~—(B) Of the required trees, a minimum of fifty percent (50%) shall be species native to the county. Required shrubs may be either native or non-native.~~

~~—(C) Existing trees and shrubs may be utilized to meet the requirements of this subchapter, provided such vegetation is located within the property lines of the lot and not in any rights-of-way or easements. Planted trees and shrubs must be a variety which is compatible with the existing soil and drainage conditions, must be in locations which will not cause danger or interference with existing structures, on-site septic systems, wells, utility lines (both above and below ground), driveways or water bodies, and are not permitted within any easement or right-of-way.~~

~~—(D) One hundred percent (100%) of the lot must be covered with lawn grass or other approved living ground cover, excluding principal structures, accessory structures, vehicle-use areas, and pedestrian walkways. Nonliving ground cover is permitted within planting beds/flower beds provided such beds do not occupy more than ten percent (10%) of the lot, less the excluded impervious areas. The Planning Director may approve landscape beds with a mix of living and nonliving ground cover in excess of ten percent (10%) following submission of a detailed landscape plan depicting the proposed plantings. The intent of this section is that all landscaped areas present a finished appearance, as determined by the Planning Director.~~

~~§ 180.27 RESIDENTIAL LOT LANDSCAPING DESIGN CRITERIA.~~

~~—All single and two-family residential lots shall conform to the following landscaping design criteria:~~

~~—(A) Plant material—existing vegetation. The preservation and maintenance of existing native vegetation and the use of drought-tolerant plant materials or water conservation techniques, as referenced in the St. Johns River Water Management District's Xeriscape Plant Guide, or other comparable publications approved by the Planning Division, is strongly encouraged. The following species, if existing on the residential lot, are not to be used as substitutes for the requirements in this section, nor shall they be planted on site:~~

Botanical Name	Common Names
Casuarina	Australian pine, beefwood
Melaleuca	Cajeput, punk tree, paperbark
Eucalyptus	Eucalyptus, gum tree
Schinus terebinthifolius	Brazilian pepper
Ricinus communis	Castor bean
Melia azedarach	Chinaberry
Enterolobium cyclocarpum	Ear tree, elephant ear
Cinnamomum camphora	Camphor tree

~~—(B) Trees. Any self-supporting woody plant (including mangroves, regardless of height, and palms) of a species which normally, in the county, grows at maturity to a minimum overall height of fifteen (15) feet. Required tree species native to the county must be those species identified by the Brevard County Agricultural Extension Services, Florida Department of Agriculture, Florida Native Plant Society, the City of Palm Bay Planning Division, or as approved by the Planning Director. Tree species shall be a minimum of six (6) feet overall height immediately after planting. Existing wax myrtles, cabbage palms, mangroves, saw palmetto or other native species having a trunk height of at least four (4) feet and having a caliper of at least two (2) inches may be substituted for the tree planting requirements in this section. These native species are strongly encouraged to be preserved on single and two-family residential lots.~~

~~—(C) Shrubs.~~

~~—(1) Definition. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—SHRUB. A bushy, woody plant, usually with several permanent stems, and usually less than ten (10) feet tall at maturity.~~

~~—(2) Existing vegetation may be used to fulfill the shrub requirements in this section.~~

~~—(D) Living ground covers. Living ground cover shall include all grasses. Living ground covers used in lieu of grasses shall be planted so as to present a finished appearance.~~

~~—(E) Nonliving ground covers. Mulch or other types of approved nonliving ground cover. The use of astroturf, marl, crushed shell, coquina, or other road base material as a ground cover is unacceptable. Railroad ties, wood, bricks, and synthetic materials can be used to separate landscape areas, but cannot be used in place of required ground cover.~~

~~—(F) Lawn grass. Lawn grass used as a living ground cover shall be planted in grass species normally grown as permanent lawns in the county such as, but not limited to bahia, St. Augustine, and Bermuda species. Lawn grass must be used in swales or other areas subject to erosion.~~

~~§ 180.29 LANDSCAPE PLAN CRITERIA.~~

~~—Applicants for single family and two-family building permits shall submit a landscape plan. The landscape plan must be shown on a survey drawing, and can be shown on the site plan survey to be submitted for the building permit. The landscape plan must contain the following:~~

~~—(A) An engineering scale and north arrow.~~

~~—(B) The legal description and address of the property.~~

~~—(C) The property lines.~~

~~—(D) All existing and proposed site features, such as structures, pavements, easements, landscaping, streets, drainage, septic tanks and drain fields, and above ground utility poles.~~

~~—(E) Explanation of or legend to identify those trees to be preserved (a tree survey is not required.) The approximate type, size, and location of the trees to be preserved must be shown on the landscape plan.~~

~~—(F) The location, common names, estimated size at planting including the plant height and quantity of proposed landscape plant, tree, and living ground cover shall be shown or listed in a key on the landscape plan. Only the type, quantity, and location of all nonliving ground cover must be shown or listed in a key on the landscape plan.~~

MUNICIPAL TREE CODE

~~§ 180.45 INTENT.~~

~~—The city recognizes that trees on municipal property serve the public interest by providing oxygen, soil stabilization, erosion prevention, shelter for wildlife and conservation of energy through shade and air filtration. Trees in parks and other~~

~~public areas enhance the image of the city, are a valuable contributor to the city's environment and are not only desirable but essential to the health, safety and welfare of all the citizens. It is the intent of this subchapter to provide for the planting, protection and maintenance of municipal trees and to designate a City Tree Department.~~

~~§ 180.46 DEFINITIONS.~~

~~—For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—CITY. The City of Palm Bay, the City Manager or his or her designee(s).~~

~~—CITY TREE DEPARTMENT or DEPARTMENT. The City of Palm Bay Parks and Recreation Department, its respective divisions and personnel, and any designated agent thereof.~~

~~—MUNICIPAL TREE. Any tree, existing or to be planted on municipally-owned property or property upon which the City has a legal right to plant trees.~~

~~—PARK. Any developed or designated future municipal park site.~~

~~—RIGHT OF WAY. Any interest in land granted, conveyed, dedicated, or acquired for city purposes, or devoted to vehicular and/or pedestrian traffic. This shall include but not be limited to land in which the city has an easement or to which the city owns fee simple title, or has any type of ownership thereof or interest in any land utilized by the city for vehicular and/or pedestrian traffic or other purposes.~~

~~—TOPPING. The severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree.~~

~~—TREE. Any self-supporting woody plant which has a minimum height of six (6) feet and which is of a species having an average mature spread or crown spread of fifteen (15) feet or greater in area and having trunks which can be maintained in a clean condition with over six (6) feet of clear wood measured from the ground at maturity. In addition, all palms with at least four and one-half (4½) feet of clear trunk between the ground level and the lowest branch are declared to be trees.~~

~~§ 180.47 APPLICABILITY.~~

~~—The terms and provisions of this subchapter shall apply to all municipally-owned property lying within the city limits, including developed parks, designated parks, road and drainage rights of way and utility and drainage sites except as otherwise provided in this subchapter. The Parks and Recreation Department of the city is~~

~~hereby designated as responsible for the tree program for the city and shall act as the City Tree Department. It shall be unlawful, without permission from the city, to remove, destroy, cut down, damage, plant, replant, prune or otherwise maintain any municipally-owned trees as defined by this subchapter.~~

~~§ 180.48 DUTIES AND RESPONSIBILITIES.~~

~~—(A) It shall be the responsibility of the Parks and Recreation Department to study, investigate, develop, update annually, and administer a tree plan which encourages city beautification, shade, and air filtration, noise abatement, property value enhancement and other desirable attributes of trees within the city. Such plan shall be reviewed and approved by the appropriate city departments and presented annually to the Environmental Advisory Board of the city for their review, and then to the City Council. Upon Council's acceptance and approval of a plan, it shall constitute the official comprehensive tree plan for the city until amended.~~

~~—(B) The Parks and Recreation Department, when requested by the City Council, shall consider, investigate, make findings of fact, report and make recommendations upon any special matter or question coming within the scope of its duties.~~

~~§ 180.49 GENERAL STANDARDS.~~

~~—(A) The city, its agent(s) or its designee(s) shall have the right to plant, prune, maintain, and remove any trees, shrubs, and other plants within all municipally-owned road rights of way, subject to the standards defined and outlined in the 1988 Florida Department of Transportation Highway Beautification and Planting Regulations, and in parks and on other municipally-owned property.~~

~~—(B) The city, its agent(s) or designee(s) may remove or cause to be removed from municipal property any tree or part thereof which is in an unsafe condition which by reason of its nature is injurious to sewers, water lines, electric lines, gas lines, or other public utilities or improvements or that is infected with any injurious fungus, insect or pest which is determined by the County Urban Forester to be a health hazard to neighboring trees, shrubs or other vegetation.~~

~~—(C) It shall be unlawful as a normal practice for any person or firm to top any tree growing on municipally-owned property without the approval of the city. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this provision. Such exemption must be requested from the city in writing.~~

~~Trees planted under overhead wires or other obstructions shall be of species whose growth is not normally expected to create a need for topping.~~

~~—(D) Every owner of any tree overhanging any municipal road right-of-way within the city shall prune the branches so that such branches shall not interfere with the maintenance of the right of way. All such pruning shall be done to comply with the 1988 Florida Department of Transportation Highway Beautification and Planting Regulations and so that there shall be a clear space of nine (9) feet above the surface of any sidewalk or bike path for public access.~~

~~—(E) Owners of tree shall remove all dead, diseased or dangerous trees or parts thereof that obstruct road rights-of-way, sidewalks, or bike paths, or which are injurious to sewers, water lines, electric lines, gas lines or other public utilities or improvements.~~

~~—(F) The city shall have the right to prune or remove any tree or shrub on private property when it meets any of the conditions described in divisions (D) and (E) above.~~

~~—(G) Owners of property that abut rights-of-way property are permitted to plant trees providing that the selection and location of such trees are in accordance with the other provisions of this subchapter and that such planting are approved in writing after review and approval by the city.~~

~~—(H) No tree shall be planted near a structure, paved surface, or water, sewer or other underground utilities if it is of a species generally recognized as having a habit of invasive root growth.~~

~~§ 180.50 ARBOR DAY.~~

~~—Arbor Day shall be observed each year with an official ceremony and proclamation.~~

~~§ 180.51 EXCEPTIONS.~~

~~—The following exceptions to this subchapter shall be permitted in the manner described:~~

~~—(A) In the event that any tree or trees shall be determined to be in imminently hazardous or dangerous condition, as determined by the city so as to endanger health or safety and require immediate removal without delay, verbal authorization may be given by the city.~~

~~—(B) During the event of emergencies such as hurricane, windstorm, flood, freeze, or other disasters, the requirements of this subchapter may be waived by the city. Any such waivers shall be temporary.~~

~~—(C) Specifically exempt from the protections expressed by the terms and provisions of this subchapter are the following species of trees:~~

- ~~—(1) Australian Pine (Casuariana spp.);~~
- ~~—(2) Brazilian Pepper (Schinus torobin-thifolius);~~
- ~~—(3) Melaleuca (Melaleuca quinquenervia);~~
- ~~—(4) Chinaberry (Melia azedarach);~~
- ~~—(5) Camphor Tree (Cinnamomum camphora);~~
- ~~—(6) Ear Tree (Enterolobium cyclocarpum);~~
- ~~—(7) Eucalyptus (Eucalyptus spp.);~~
- ~~—(8) Castor Bean (Ricinus communis);~~
- ~~—(9) Chinese Tallow (Sapium sebiferum).~~

~~§ 180.99 PENALTY.~~

~~—It shall be unlawful for any person to prevent, delay or interfere with the city or any of its agent(s), employees, or contractors, while engaging in the planting, cultivating, mulching, pruning, spraying or removing of any municipally-owned tree. Any person violating any provision of §§ 180.45 et seq. shall be guilty of a second degree misdemeanor punishable as provided in Fla. Stat. §§ 775.082 and 775.083.~~

~~CHAPTER 181: WATER AND SEWERS~~

~~EXPANSION OF SANITARY SEWER SYSTEM~~

~~§ 181.050 REQUIREMENT OF ALL RESIDENTIAL SUBDIVISIONS OF ANY SIZE AND MULTIPLE FAMILY DEVELOPMENTS OVER ONE HUNDRED (100) UNITS IN SIZE TO PROVIDE EMERGENCY POWER AND PUMPING EQUIPMENT.~~

~~—(A) The emergency power and pumping requirement is provided for in this subchapter to provide emergency power and/or by-pass pumps for each lift station constructed in specified residential developments where sanitary sewer system is constructed.~~

~~—(B) Developers with less than four (4) lift stations shall provide at a minimum a by-pass pump for each lift station sufficient to maintain adequate pumping capacity so as not to allow a sewer overflow due to loss of power.~~

~~—(C) Developers with four (4) or more lift stations in a Planned Unit Development (PUD) shall provide a minimum of one (1) portable generator sufficient to operate every four (4) lift stations or portion thereof in order to maintain adequate pumping capacity so as not to allow a sewer overflow due to loss of power.~~

~~WATER SHORTAGE EMERGENCY~~

~~§ 181.060 DEFINITIONS.~~

~~—For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—INDIVIDUAL. Any person, firm, corporation, or other legal entity, whether public or private.~~

~~—WATER. Water taken from:~~

~~—(1) The city water system;~~

~~—(2) Any groundwater system, including shallow and deep water wells drawing water from the Florida aquifer;~~

~~—(3) Any surface water system; or~~

~~—(4) Any other public water supply.~~

~~—(5) Including, but is not limited to, any system that uses any groundwater or interconnected surface waters for a water source irrespective of whether such system is publicly or privately owned.~~

~~—WATER SHORTAGE EMERGENCY. A declaration by the city or county of the city that a water shortage exists.~~

~~§ 181.061 APPLICATION.~~

~~—The provisions of this subchapter shall apply to all individuals who use water, as defined, herein within the city.~~

~~§ 181.062 IMPLEMENTATION.~~

~~—The curtailments and restrictions of water uses provided for herein shall be implemented upon a declaration at any time of a water shortage emergency by the City Council and shall remain in effect until such time as the City Council shall declare such emergency to be at an end.~~

~~§ 181.063 RESTRICTION OR CURTAILMENT OF WATER USES.~~

~~—Nonessential uses of water shall be restricted or curtailed during the existence of a water shortage emergency. These restrictions shall include, but are not limited to, the following:~~

~~—(A) The sprinkling, watering or irrigating of shrubbery, trees, lawns, grass, ground covers, plants, vines, and gardens shall be limited to the hours of 7:00 a.m. through 9:00 a.m. and 7:00 p.m. through 9:00 p.m. Further, such uses of water shall be authorized for the following categories of users on the following days of the week:~~

~~—(1) Residential property owners whose street addresses (house numbers) end in an odd number shall be authorized to use water for the above purposes only on odd numbered days during a declared water shortage or water shortage emergency;~~

~~—(2) Residential property owners whose street addresses (house numbers) end in an even number shall be authorized to use water for the above uses only on even numbered days during a declared water shortage or water shortage emergency;~~

~~—(3) All commercial uses (such as nurseries, apartments, condominiums, home owners' associations, golf courses, shopping centers, farmers, and other commercial users) of water shall use water for the above purposes only as provided herein:~~

~~—(a) Such commercial users whose business addresses (street numbers) end in an odd number shall be authorized to use water for the above purposes only on odd numbered days during a declared water shortage or water shortage emergency;~~

~~—(b) Such commercial users whose business addresses (street numbers) end in an even number shall be authorized to use water for the above purposes only on even numbered days during a declared water shortage or water shortage emergency.~~

~~—(4) Industrial properties shall use water for the above purposes only as provided herein:~~

~~—(a) Industrial properties whose business addresses (street numbers) end in an odd number shall be authorized to use water for the above purposes only on~~

~~odd numbered days during a declared water shortage or water shortage emergency;~~

~~—(b) Industrial properties whose business addresses (street numbers) end in an even number shall be authorized to use water for the above purposes only on even numbered days during a declared water shortage or water shortage emergency.~~

~~—(B) The escape of water through defective plumbing, which means to knowingly allow water to escape through any water system that is in disrepair;~~

~~—(C) The washing of sidewalks, driveways, porches, exterior of homes, apartments or other outdoor surfaces;~~

~~—(D) The washing of business or industrial equipment and machinery, except as required for the public health;~~

~~—(E) The operation of any ornamental fountain or other structure using water with or without a recirculating system;~~

~~—(F) The filling of swimming pools and wading pools not using a filter and recirculating system;~~

~~—(G) The washing of automobiles, trucks, trailers, railroad cars, mobile homes, campers, or any other type of mobile equipment, except at a business enterprise established for such purpose which recycles at least seventy-five percent (75%) of water used;~~

~~—(H) The use of water for dust control, except as required for the public health;~~

~~—(I) The use of water for hydrant flushing except for the purpose of maintaining chlorine residuals;~~

~~—(J) The use of water for a water-to-air air conditioning system except where a return well has been provided to recycle water back to the shallow aquifer.~~

~~§ 181.064 ENFORCEMENT.~~

~~—(A) Every police officer or city enforcement officer, including but not limited to inspectors from the Fire Department who have arrest power pursuant to state law, or other enforcement personnel of the city who have such powers, shall be authorized and empowered to enforce the provisions of this subchapter.~~

~~—(B) In addition to the penalties for violations, provided herein, the City Manager may enforce the provisions of this subchapter by ordering discontinuance of service to any person violating the provisions hereof for the third and each~~

~~successive violation during any declared water shortage. If any person's water supply is discontinued under the provisions of this subchapter, such person will be required to pay all charges necessary for reconnection before the city will reconnect such person's water supply.~~

~~§ 181.065 EXCEPTION TO MAINTAIN SANITATION.~~

~~The City Manager shall have the authority to permit a reasonable use of water in any case necessary to maintain adequate health and sanitation standards as set forth in the Brevard County Health Code. These permits shall be issued only upon the showing of good cause for the uses requested when supported by the aforesaid county health and sanitation standards.~~

~~POTABLE WATER WELLFIELD PROTECTION CODE~~

~~§ 181.130 PURPOSE.~~

~~The primary purpose of this subchapter is to reduce the risk to human health associated with contaminated drinking water. The quantity and quality of water available for use as a public water supply is directly related to land activities. Presently, a majority of the city's residents obtain their potable water supply from wells that pump water from a shallow aquifer. This aquifer is recharged by rainfall that occurs in the area around the wellfield. Land use activity near potable water wells has direct consequences on the quality of water percolating into the surficial aquifer. To ensure the long-term use of the present and future wells and wellfields it is necessary to take steps which will help to prevent the contamination of underground fresh water.~~

~~§ 181.131 DEFINITIONS.~~

~~For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~AQUIFER. A geologic formation through which water may be percolated, transmitted, stored and yielded.~~

~~DESIGNATED PUBLIC UTILITY. Any agency which under public franchise or ownership, operates a well or wells, to provide potable or raw water to the public for consumption.~~

~~HAZARDOUS CONSTITUENTS. Those chemicals and substances listed in Appendix A [of Ordinance 89-13, which is not codified in this subchapter, but is on file and available for reference in the office of the City Clerk].~~

~~—STANDARD INDUSTRIAL CODE (SIC). A publication printed by the U.S. Government Printing Office which classifies and defines industries and commercial activities.~~

~~—WELL. 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 a source bed to the surface by pumping, natural flow or other method.~~

~~—WELLFIELD. An area of land which contains one (1) or more than one (1) well for obtaining water.~~

~~§ 181.132 LAND USE AND DISTANCE REQUIREMENTS FROM ACTIVE DESIGNATED PUBLIC UTILITY WATER WELLS.~~

~~—(A) The following land uses and activities shall be prohibited from locating within two hundred (200) feet of a designated public utility water well.~~

~~—(1) Stormwater discharge retention-detention facilities.~~

~~—(2) Any industrial or commercial activities that utilize, generate, or, store any of substances listed as hazardous constituents in Appendix A.~~

~~—(3) Any uses listed in the Modified Standard Industrial Code, being Appendix B. These uses have the potential for the discharge of contaminated stormwater.~~

~~—(4) Sanitary landfills.~~

~~—(5) Domestic wastewater facilities including underground storage and transportation facilities.~~

~~—(6) Mining or excavation operations of any kind.~~

~~—(B) The following land uses and activities shall be prohibited from locating within one thousand (1,000) feet of a designated public utility water well.~~

~~—(1) Any industrial or commercial activities that utilize, generate or store in excess of five (5) gallons of liquid or twenty-five (25) pounds of solid, of any substances listed as hazardous constituents in Appendix A.~~

~~—(2) Any uses listed in Modified Standard Industrial Code, being Appendix B. These uses have the potential for the discharge of contaminated stormwater.~~

~~—(3) Sanitary landfills.~~

~~—(4) Mining or excavation operations of any kind.~~

~~—(C) Special exception site plan approval shall be required to locate any domestic wastewater facilities which include underground storage and transportation facilities between two hundred (200) feet and one thousand (1,000) feet from a designated public utility water well.~~

~~Editor's note: Appendix A and Appendix B, attached to original Ordinance 89-13, passed April 27, 1989, have not been codified in this subchapter. Copies of Appendix A and Appendix B shall remain on file for public inspection in the office of the City Clerk.~~

~~§ 181.133 FUEL STORAGE TANK AND PUMP CONSTRUCTION.~~

~~—All fuel storage tanks and pump systems in the city shall comply with the requirements of §§ 176.01 et seq. of this code of ordinances and shall also comply with all zoning locational requirements.~~

~~§ 181.134 VESTED RIGHTS.~~

~~—This subchapter shall not in any way limit or modify the vested rights of any person to complete any development or improvements to lands based upon prior law where a previous permit has been issued, authorization has been granted or final engineering/architectural plans, sealed by an engineer/architect are on file with the city prior to the enactment of this subchapter and where such previous permits, authorization, or plans remain in effect or are continuously processed to permitting. City Council may acknowledge vested rights in other circumstances where it is equitable and just.~~

~~CHAPTER 182: PUBLIC IMPROVEMENTS~~

~~PROCEDURE FOR ACCEPTANCE AND MAINTENANCE~~

~~§ 182.01 CREATION.~~

~~—There is created a subchapter to be entitled "Procedures for Acceptance and Maintenance of Public Improvements."~~

~~§ 182.02 DEFINITION.~~

~~—For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—PUBLIC IMPROVEMENTS. Physical changes made to raw land to make the land more usable, including structures placed on or under the land surface, grading, street pavements, sidewalks, curbs, gutters, drainage structures, water mains, sanitary sewer facilities, utility lines, traffic control devices, street signs,~~

~~landscaping, permanent control points (PCP), permanent reference monuments (PRM) or any other structure or facility proposed to be accepted for maintenance by the public.~~

~~§ 182.03 REQUEST BY APPLICANT.~~

~~—(A) Contents. Prior to any public improvement(s) being submitted for acceptance for perpetual maintenance by the city, a written request must first be submitted to the city. Such request must describe the type, location and purpose of such improvement(s) to include, as applicable, the legal description of the area to be served by the improvement(s), the detailed operation of the improvement(s), and the public purpose served by the improvements. Any acceptance of public improvements shall meet all requirements contained in this Chapter with the exception of the following public improvement types:~~

~~—(1) Water, wastewater and reuse improvements may be accepted administratively by the Utilities Department provided the conditions of acceptance are contained within a written Service Agreement or other contract. The Utilities Department has the right to not accept such improvements administratively and may require that the applicant's request follow the procedures contained in this Chapter.~~

~~—(2) Subdivision improvements, where the City Council has agreed to accept identified public improvements during the Preliminary or Final Subdivision process, may be accepted administratively provided the applicant has constructed all improvements in conformance with approved subdivision construction plans. The reviewing Departments have the right to not accept such improvements administratively and may require that the applicant's request follow the procedures contained in this Chapter.~~

~~—(B) Meeting of City Council. Such request shall be heard at a regularly scheduled meeting of the City Council. The City Council, in its determination of whether to accept such improvements, shall consider the following:~~

~~—(1) The public necessity and purpose of accepting the improvement(s) to promote the health, safety, and welfare of the public;~~

~~—(2) The existing physical condition of the improvement(s);~~

~~—(3) The extent to which the improvement(s) meets city or site construction and design requirements or standards;~~

~~—(4) The city's financial ability and other capabilities to maintain such improvement(s) given its size, location, condition, and design;~~

~~—(5) The characteristics of the existing development to be served by the improvement(s), to include the type of development and density of development.~~

~~—(C) Determination of need to accept improvement(s). Following consideration of the above factors, the City Council shall make a determination of the need to accept the improvement(s), whether the city has the financial ability to maintain the improvement(s), the impact acceptance of the improvement(s) will have upon other municipal services, the public purpose to be served by accepting the improvement(s), the general capability of the city to maintain the improvement(s), whether the health, safety, and welfare of the general public will be~~

~~served by acceptance of the improvement(s), and its intent to accept the improvement(s), or to accept the improvement(s) with conditions.~~

~~—(D) Written request, accompanying documents. Following a determination of the City Council of its intent to accept the public improvements(s) for maintenance, the applicant shall submit a written request to the City Manager with two (2) copies and one (1) complete set of "as-builts" which shall be reproducible. The request shall specifically request consideration of the following items:~~

~~—(1) Staff recommendations for approval of construction of the public improvement(s);~~

~~—(2) Release of the applicant from the performance bond or surety for construction of the public improvement(s);~~

~~—(3) A review of the project with the city staff on the issue of completion and acceptance of the public improvement(s) for maintenance purposes;~~

~~—(4) A request for the city to accept and maintain public improvement(s);~~

~~—(5) The applicant shall attach the engineer's certificate of completion with the application.~~

~~—(6) A review of a two (2)-year maintenance bond as per Chapter 184.~~

~~—(E) Applicability of provisions. The provisions of this section shall apply to all improvements proposed to be accepted by the city for maintenance unless a written request with "as-built" drawings has been submitted to the city prior to the effective date of this section.~~

~~§ 182.04 INITIAL CONSIDERATION.~~

~~—The city staff shall review, inspect and test the public improvements at the applicant's expense. The type of tests shall be selected by the city, shall be carried out by firms selected by the city and shall be carried out in accordance with the standards, practices and procedures generally utilized by the industry for such tests. Review of the public improvements by the city staff is to be based upon the applicable city, county, state and/or industry construction specifications that set the standards for the public improvement contained in the request. The construction standards that will apply will vary as follows:~~

~~—(A) For public improvements that were constructed, placed, or installed prior to July 1, 1982, the construction, placement or installation shall be in accordance with the approved construction plans and the applicable construction standards in effect at the time of construction. If, however, review, inspection or testing yield results not in keeping with the above, corrective measures shall be made in accordance with the approved construction plans and the applicable construction standards in effect at the time of construction by the developer.~~

~~—(B) For public improvements to be constructed within the subdivided plats that were recorded prior to July 1, 1982, but have not been constructed, and for which construction plans have been prepared and approved, the applicable construction standards will be the standard construction specifications of the city and made a part of this chapter, by reference, including, but not limited to, Divisions 2, 3, 4 and 5 thereof as those specifications exist today or as they may be amended from time to time by the city engineer with the exception of those improvements where construction has begun within two (2) years from July 1, 1982. In those instances the construction standards shall be in accordance with the approved construction plans and the applicable construction standards in effect at the date of platting and plan approval. Upon the written request of a developer for good cause, the City Manager may extend, for a maximum period of one (1) year, the initial construction date for the applicable units under this section. GOOD CAUSE, for purposes of this division (B), shall include the inability to obtain or receive approval of necessary permits and approvals from the regulatory agencies that regulate such construction.~~

~~—(C) For public improvements to be constructed within subdivided plats that were recorded prior to the effective date of this subchapter but for which construction plans have not been approved, the applicable construction standards will be the standard construction specifications of the city adopted and made a part of this subchapter, by reference, including but not limited to Divisions 2, 3, 4 and 5 thereof~~

~~as those specifications exist today or as they may be amended from time to time by the City Engineer.~~

~~—(D) For public improvements to be constructed under other than any of the foregoing conditions, the applicable construction standards will be the standard construction specifications of the city adopted and made a part of this subchapter, by reference, including but not limited to Divisions 2, 3, 4 and 5 thereof as those specifications exist today or as they may be amended from time to time by the City Engineer.~~

~~—(E) In all of the foregoing cases, where modification of the requirements of the city's current standard construction specifications is being accepted, the modification is not intended to exempt compliance with any and all other applicable existing provisions of this code of ordinances and any other ordinance of the city.~~

~~—(F) It is the express intent of the City Council to permit the City Engineer, in his sound discretion, to amend specifications from time to time in accordance with the standards as established by good engineering practices and industry standards that pertain to the particular improvement offered for acceptance by the developer.~~

~~Editor's note: Current construction standards are set forth in Chapter 170 of this code of ordinances and in other applicable provisions of this Title XVII.~~

~~§ 182.05 UNACCEPTABLE IMPROVEMENTS.~~

~~—If the public improvement is determined to be unacceptable, the City Manager shall have the following options:~~

~~—(A) Recommendation to the City Council that they invoke any posted bond or surety;~~

~~—(B) Direction of the city staff to continue working with the applicant on a correction list system to complete the public improvements and/or bring them up to all applicable standards, all at the applicant's expense;~~

~~—(C) Recommendation to the City Council that the public improvement not be accepted.~~

~~§ 182.06 REPORT TO COUNCIL.~~

~~—Upon completion of the review, inspection, testing and approval of the public improvement, the City Manager shall report the findings to the City Council. In no event shall the staff review process exceed sixty (60) days unless testing of the public improvement cannot be completed within such time period, in which event the time period shall be extended an additional sixty (60) days.~~

~~§ 182.07 ACCEPTABLE IMPROVEMENTS.~~

~~—If the public improvement is determined to be acceptable, the City Council may consider a resolution accepting the construction of the public improvements specifically listed in the resolution, releasing the performance bond as to those acceptable public improvements and requiring the applicant to maintain the specified public improvements. Adoption of the resolution shall be contingent upon the applicant posting a maintenance bond or adequate security as determined by the Council, for the maintenance period prescribed by the City Council. For those public improvements that were constructed prior to July 1, 1982, the maintenance period will be for one (1) year; for those public improvements constructed after July 1, 1982, the maintenance period will be for two (2) years. The amount of the maintenance bond must be approved by the City Council and the City Attorney as to the form. Such resolution shall also be contingent upon the applicant complying with the provisions of § 182.08. Such bond or security shall be filed with the City Clerk.~~

~~§ 182.08 REVIEW FOR FINAL ACCEPTANCE FOR MAINTENANCE.~~

~~—(A) Not less than ninety (90) days and not more than one hundred and fifty (150) days prior to the expiration of the two (2) year maintenance period, the applicant shall request the city to review, reinspect and retest the public improvement, at the applicant's expense, for purposes of final acceptance of the improvement for maintenance purposes.~~

~~—(1) Such retesting shall be based upon standards, practices and procedures that are generally utilized in the industry that pertain to the public improvement sought to be accepted.~~

~~—(2) If the public improvement is determined to be acceptable, the City Council shall consider adoption of a final resolution accepting the maintenance of the improvements specifically listed in the resolution and establish the effective date as the termination of the two (2) year maintenance period.~~

~~—(3) If the public improvement is determined to be unacceptable, the City Manager shall have the following options:~~

~~—(a) Recommendation to the City Council that they invoke the posted maintenance bond or security;~~

~~—(b) Direction of the city staff to continue working with the applicant on a correction list to complete the improvement at the applicant's expense;~~

~~—(c) Recommendation that the City Council take any other action it may deem appropriate, including the rejection or tabling of the request.~~

~~—(B) In the event an applicant fails to either request review of the applicable improvement or complete the required corrections under this section within the appropriate time, such applicant will be required to post and additional one (1) year maintenance bond or security. If the applicant fails to post such a bond or security within thirty (30) days before expiration of the existing bond or security, the City Council may rescind its prior resolution accepting construction of the improvements, invoke the posted maintenance bond or security, if appropriate, and the applicant shall be required to recommence beginning with the requirements as established in § 182.03.~~

~~§ 182.09 NECESSITY OF COUNCIL ACTION TO ASSUME MAINTENANCE RESPONSIBILITY.~~

~~—Any resolution that provides for the city to finally assume responsibility to maintain any public improvement shall not become final until the expiration of any maintenance period required hereunder. The maintenance of public improvements shall never become the responsibility of the city unless and until final acceptance by the City Council by appropriate resolution at the end of the two (2) year maintenance period.~~

~~§ 182.10 FEES.~~

~~—The fee charged to the applicant shall be on the basis of actual time spent reviewing the public improvement by the city staff and any actual testing costs. The maximum amount an applicant may be charged for staff review time, not including actual testing costs, is set by adopted City Fee Schedule per request to review a public improvement. The charge per hour of individual staff time is a flat rate of twenty dollars (\$20.00) per hour. The minimum charge for any review is twenty dollars (\$20.00). Fees shall be paid as invoiced by the Finance Department of the city and before the City Council's consideration of the public improvement.~~

CHAPTER 183: COMPREHENSIVE PLAN REGULATIONS

GENERAL PROVISIONS

~~§ 183.01 COMPREHENSIVE PLAN.~~

~~—(A) Authority. This section is adopted pursuant to Fla. Const. Art. VIII, § 2,; Fla. Stat. Ch. 163 [being the Local Government Comprehensive Planning and Land~~

~~Development Regulation Act] and Fla. Stat. Ch. 166; and Fla. Laws Ch. 63-2001, Special Acts of 1963.~~

~~—(B) Purpose and intent. The city declares that the purpose and intent of this section is to provide for the city a plan which will guide future growth and development; encourage the most appropriate use of land, water and other resources consistent with the public interest, preserve, promote and protect the public health, safety, comfort, good order, appearance, convenience, and general welfare; preserve the residential or historical character of neighborhoods, prevent the overcrowding of land, avoid undue concentration of population; provide adequate and energy-efficient transportation, water, sewage, drainage, fire protection, law enforcement, schools, parks, recreation facilities, housing and other services, facilities and resources; enhance the aesthetic appeal of the community; promote the residential, business, and industrial needs of the community; and conserve and protect natural resources within the city, while protecting private property rights. By the adoption of this plan, the city will encourage and actively pursue coordination and cooperation between the planning and development activities of the city, other local governments, regional agencies, state government, and private property owners. The adoption of this section reserves the city's right to balance the needs of tide community.~~

~~—(C) Adoption.~~

~~—(1) The city adopts, by reference, the comprehensive plan and the goals, objectives and policies of each element:~~

~~——(a) Future land use element;~~

~~——(b) Recreation and open space element;~~

~~——(c) Coastal management element;~~

~~——(d) Conservation element;~~

~~——(e) Housing element;~~

~~——(f) Infrastructure element, consisting of sanitary sewer, solid waste, drainage, potable water and natural ground water aquifer recharge sub-elements;~~

~~——(g) Intergovernmental coordination element;~~

~~——(h) Capital improvements elements;~~

~~——(i) Transportation element consisting of traffic circulation and sub-elements; and~~

~~——(j) Mass transit;~~

~~——(k) Ports, aviation and related facilities, and CIE schedule of capital improvements.~~

~~——(2) Copies of the elements set forth in division (1) above are incorporated herein by reference as Exhibit A, which is attached to Ordinance 88-28, as amended by Exhibits A and B of Ordinance 90-20.~~

~~——(D) Adoption of future land use map. The city adopts, by reference, the future land use map as part of the comprehensive plan of the city. A copy of the map, as may be amended from time to time, is incorporated herein by reference as Exhibit B, which is attached to Ordinance 88-28 as amended by Exhibit C of Ordinance 90-20.~~

~~——(E) Adoption of future traffic circulation map. The city adopts, by reference, the future traffic circulation map as part of the comprehensive plan of the city. A copy of this map is incorporated herein by reference as Exhibit C, which is attached to Ordinance 88-28 as amended by Exhibit D of Ordinance 90-20. The future traffic circulation map shall serve as an official guide for future development within the city.~~

~~——(F) Adoption of procedure for monitoring. The city adopts, by reference, the procedure for monitoring and evaluation of the comprehensive plan, which is incorporated herein by reference as Exhibit D and which is attached to Ordinance 88-28.~~

~~——(G) Construction. The comprehensive plan and its elements shall be constructed by the city and its officials to accomplish the purpose and intent of this section. In the event various elements of the plan may appear to be in conflict, then in that event, the city and its officials shall resolve such conflict consistent with the purpose of this section. Any decision by the city or its officials construing various elements of the comprehensive plan shall be presumed to be fairly debatable. The city expressly reserves its legislative function to implement this comprehensive plan and to construe its various elements.~~

~~——(H) Interpretation of land use boundaries. Where uncertainty exists with respect to the boundaries of any of the land use districts as shown on the future land use map, the following rules shall apply:~~

~~——(1) Where boundaries approximately follow streets, alleys, or highways. Where district boundaries are indicated as approximately following the centerline or street line of streets, the centerline or alley line of alleys, or the centerline or~~

~~right-of-way line of highways such lines shall be construed to be such district boundaries.~~

~~—(2) Where boundaries parallel street lines, alley lines or highway right-of-way lines. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, the center lines or alley lines of alleys, or the centerlines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the future land use map.~~

~~—(3) Where boundaries approximately follow lot lines. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.~~

~~—(4) Where the boundary follows a railroad line. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of the railroad lines.~~

~~—(5) Where the boundary follows a body of water. Where the boundary of a district follows a stream, lake or other body of water such boundary line shall be construed to be the limit of the jurisdiction of the city, unless otherwise indicated.~~

~~—(6) Submerged areas not included in district. All areas within the corporate limits of the city which are under water and are not shown as included within any district shall be subject to all of the regulations of the district which immediately adjoins the water area. If the water area adjoins one (1) or more districts the boundaries of each district shall be construed to extend into the water area in a straight line until they meet the other district.~~

~~—(7) Where property has not been included in district. In every case where property has not been specifically included within a district, or where territory has become a part of the city by annexation, the same shall automatically be classed as lying and being in the single-family land use district until such classifications shall have been changed by an amendment to the future land use map as provided by law.~~

~~—(8) Vacation of public ways. Whenever any street, alley, or other public way is vacated in the manner authorized by law, the land use district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then henceforth be subject to all regulations of the extended districts.~~

~~—(9) Where district boundaries are indicated as following platted lot lines, such lot lines shall be construed to be the district boundaries.~~

~~—(10) Where district boundaries are indicated by specific dimensions, such specific dimensions shall control.~~

~~—(11) Where district boundaries divide platted lots or cross unsubdivided property, and where no specific dimensions are indicated on the future land use map, the scale of the future land use map shall control.~~

~~—(12) Where the street or property layout or other physical features existing on the ground are at variance with the future land use map, or where other uncertainties exist as to interpretation of the future land use map, the Planning Director shall interpret the map to fix the exact location of land use boundaries.~~

~~—(I) (1) All development undertaken after the effective date of this section shall be consistent with such plan, elements, and maps except as provided herein.~~

~~—(2) The Planning Director shall be the caretaker of and responsible for recording all changes to the district boundaries on the future land use map promptly after any amendment has been approved by the City Council.~~

~~—(J) Vested rights.~~

~~—(1) In the event any provision of the comprehensive plan or maps would limit or modify the vested rights of any person or entity to complete any development that has been previously authorized, then in that event, the city may recognize the right to complete the development as provided herein. The city recognizes the right of any person to complete the following development:~~

~~—(a) Development that has received a building permit;~~

~~—(b) Development that has received final plat approval or final site plan approval;~~

~~—(c) Development that has received preliminary plat approval, preliminary subdivision approval, or preliminary PUD approval provided the development has secured a permit to construct all or any phase of such development and is continuing the development in good faith.~~

~~—(2) Any person or entity with vested rights who has a right to complete a development and has secured a building permit, final plat approval, final site plan approval, or preliminary approval as provided above shall lose its right to complete such development if such development does not maintain a current building permit, or current site plan or development approval as provided for by this code of~~

~~ordinances of the city. Once a development has lost its current approval, then in that event future development shall comply with applicable provisions of the comprehensive plan and maps.~~

~~—(3) The city may recognize other applications for vested rights in accordance with the following procedure:~~

~~—(a) Any property owner who claims to have vested rights based upon a prior approval from the city other than as provided above may submit to the city manager, within one hundred and twenty (120) days after the effective date of this section, a written request for recognition of the vested rights.~~

~~—(b) The applicant shall submit such information as the applicant deems appropriate to support a claim of vested rights including a legal description of property, dates of any recent rezoning, preparation of any plans, approval of any plans, any action of the city upon which applicant has relied, facts showing substantial reliance or change in position.~~

~~—(c) Within ninety (90) days after receipt of the application, the City Council shall either recognize or reject the applicant's claim of vested rights. If this city fails to act upon such request within ninety (90) days, then the application shall be deemed to be denied. No suit shall be filed by the applicant unless prior thereto the applicant has made a request of the city prior to the litigation.~~

~~—(K) Constitutional claims.~~

~~—(1) In the event any person claims that any provision of the comprehensive plan, elements, or maps constitutes a taking of the landowner's property without due process of law and the payment of just compensation as provided for in the Florida Constitution and the Constitution of the United States of America, then in that event, the person shall first present the claim to the city. The provisions of Fla. Stat. § 163.3215 shall prevail on any claims that may be asserted under such statutes and this section shall not be construed as an additional remedy presently governed by Fla. Stat. § 163.3215.~~

~~—(2) Any person claiming such taking shall:~~

~~—(a) Submit the claim in writing to the City Manager identifying the name and address of the property owners;~~

~~—(b) The present use of the property;~~

~~—(c) The present land use designation and zoning classification;~~

~~—(d) The particular provision of the comprehensive plan that the person believes to have constituted a taking;~~

~~—(e) The remedy requested;~~

~~—(f) Documentation or other evidence demonstrating the economic deprivation;~~

~~—(g) Case law or legal authority, if any, that demonstrates the taking;~~

~~—(h) Such other information demonstrating how the plan or element constitutes a taking.~~

~~—(3) After the city has received the request, it shall have ninety (90) days to review and act upon the request. Due public notice as required by Fla. Stat. Ch. 163 and Ch. 166, shall be provided prior to granting any relief under this section. The city reserves its full legislative function to act upon requests under this section and the actions shall be presumed to be fairly debatable.~~

CONCURRENCY MANAGEMENT SYSTEM

§ 183.20 PURPOSE AND INTENT.

~~—The concurrency management system shall implement established minimum acceptable level of service standards for roads, potable water, sanitary sewer, solid waste, drainage and parks. This system is designed to utilize the most current and available data regarding the above public facilities or services to measure the impact of any development permit proposal upon the facilities for which levels of service have been adopted. No final development permit can be issued unless adequate facilities or services are available as determined by the concurrency evaluation.~~

§ 183.21 EVALUATION CRITERIA.

~~—The city shall utilize the following criteria to determine whether levels of service are adequate to support the specific impacts of a proposed development:~~

~~—(A) Roadways.~~

~~—(1) (1) Capacity for transportation facilities shall be evaluated using the 2002 Quality/Level of Service Handbook, Florida Department of Transportation.~~

~~—(2) Projected impacts on the transportation system shall be determined by utilizing the trip generation standards set forth in the Trip Generation Manual, 7th Edition, Institute of Transportation Engineers, and evaluating their impact at points of ingress and egress to roadways in the city.~~

~~— (3) (a) The calculation of total traffic generated by a proposed nonresidential project will assume one hundred percent (100%) buildout and occupancy of the project. Credit against the trip generation rates may be taken utilizing the percentages below:~~

~~Percent of Captured Trips from Passing Traffic~~

~~Use~~

~~Percentage (%)~~

~~Percent of Captured Trips from Passing Traffic~~

~~Use~~

~~Percentage (%)~~

~~Shopping centers:~~

~~— More than 400,000 sq. ft.~~

~~25~~

~~— 100,000 — 400,000 sq. ft.~~

~~25~~

~~— Less than 100,000 sq. ft.~~

~~25~~

~~Supermarkets~~

~~25~~

~~Hardware stores~~

~~5~~

~~Convenience stores~~

~~40~~

~~Fast food restaurants~~

~~35~~

~~Restaurants~~

~~15~~

~~Banks~~

~~46~~

~~Day care centers~~

~~40~~

~~Service stations/carwashes~~

~~58~~

~~Offices~~

~~0~~

~~Industrial uses~~

~~0~~

~~-~~

~~—(b) Any capture of trips from passing traffic for uses not specified above or in excess of those percentages must be justified by the applicant.~~

~~—(4) Current operating level of service shall be based upon the most recent traffic counts available plus projected traffic counts from previously committed developments.~~

~~—(B) Sanitary sewer and potable water.~~

~~—(1) City system. Capacity shall be determined by capacity reservation for the project by the Public Works Department of the city.~~

~~—(2) General development utilities system. Adequate capacity shall be determined by capacity reservation for the project by general development utilities.~~

~~—(3) Brevard Consumer Health Services. Issuance of a septic tank permit and approval of potable water well.~~

~~—(C) Solid waste. County Utilities Department shall certify that capacity exists prior to development approval.~~

~~—(D) Parks.~~

~~—(1) Adequacy of public parks shall be based on Palm Bay's level of service standards of five (5) acres per one thousand (1,000) population by planning area.~~

~~—(2) The impact of a proposed development will be determined by utilizing the official household-size multiplier, from the University of Florida, Bureau of Economic and Business Research for Palm Bay, times the number of units projected for a project.~~

~~—(E) Drainage. Certification that a project meets all applicable standards of the stormwater management regulations set forth in Chapter 174 of this code of ordinances shall be made by the city engineering division prior to permit approval.~~

~~§ 183.22 CONCURRENCY EVALUATION FINDINGS.~~

~~—The city shall issue a concurrency evaluation during the building permit process and this evaluation shall certify either a nondeficiency finding or a deficiency finding:~~

~~—(A) Nondeficiency finding. A finding of nondeficiency by the concurrency evaluation shall remain valid provided a building permit has been issued within sixty (60) days of the concurrency evaluation. Once a building permit has been issued, the finding shall remain valid until construction has been completed and a certificate of occupancy issued; or for the life of the permit until it is revoked or suspended for failure to proceed in a timely manner as prescribed.~~

~~—(B) Deficiency finding. A finding of deficiency by the concurrency evaluation shall negate approval of the building permit application or force deferral of this approval.~~

~~§ 183.23 CUMULATIVE RECORDS OF LEVEL OF SERVICE.~~

~~—The concurrency management system shall maintain a cumulative record of the level of service allocations permitted by the approval of building permits relative to the operating levels of service for the referenced public facilities.~~

~~§ 183.24 ADMINISTRATION.~~

~~—The Planning Division shall administer the provisions of this subchapter and may develop such administrative rules, forms, applications and fees as may be required to implement the concurrency management system.~~

PROPORTIONATE FAIR SHARE TRANSPORTATION

~~§ 183.30 SHORT TITLE, AUTHORITY, APPLICABILITY.~~

~~—(A) This subchapter shall be known and may be cited as the "City of Palm Bay Proportionate Fair Share Transportation Ordinance."~~

~~—(B) This subchapter is adopted pursuant to Fla. Stat. § 163.3180(16).~~

~~—(C) The provisions of this subchapter shall apply to all developments within the city that impact a road segment where the road segment has failed to achieve transportation concurrency by having a level of service below that adopted in the city Comprehensive Plan.~~

~~—(D) This section shall not apply to multiuse Developments of Regional Impacts (DRIs), to developments exempted from concurrency or to developments creating de minimis impacts.~~

~~—(E) This subchapter shall be superior to any Brevard County ordinance which is adopted pursuant to Fla. Stat. § 163.3180(16).~~

~~§ 183.31 PURPOSE AND INTENT.~~

~~The purpose and intent of this subchapter is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors.~~

~~§ 183.32 DEFINITIONS.~~

~~For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~CAPITAL IMPROVEMENTS. The outlay of capital dollars for the planning of, engineering for, acquisition of land for, and construction of roads, turn lanes, intersection improvements and signalization, but does not include maintenance.~~

~~COMMUNITY INVESTMENT PLAN (CIP). The five-year capital improvement element adopted in the City of Palm Bay Comprehensive Plan.~~

~~DEVELOPER. Any person, any business entity including but not limited to any corporation partnership, association, trust, estate, business trust, agency, two (2) or more persons having a joint or common interest, governmental entity, or any other entity undertaking the development of land.~~

~~FAIR SHARE TRANSPORTATION FACILITIES IMPACT FEE or IMPACT FEE. The fee required to be paid in accordance with the terms of the appropriate sections of the City of Palm Bay Fair Share Transportation Facilities Impact Fee Ordinance.~~

~~LAND. The earth, water, and air above, below, or on the surface, and includes any improvements or structures customarily regarded as land.~~

~~LAND DEVELOPMENT ACTIVITY GENERATING TRAFFIC. The carrying out of any building activity or the making of any material change in the use of any structure or land that attracts or produces vehicular trip(s) over and above that produced by the existing land development activity, and consequently places an additional demand on the major road network system.~~

~~—LEVEL OF SERVICE. A qualitative measure that represents the collective factors of speed, travel time, traffic interruption, freedom to maneuver, safety, driving comfort and convenience, and operating costs provided by a road facility under a particular volume condition. Levels of service vary from A to F. LEVEL OF SERVICE C shall mean a roadway condition as determined and established by the 2002 Florida Department of Transportation's 2002 Quality/Level of Service Handbook.~~

~~—MAJOR ROAD NETWORK SYSTEM. All arterial and collector roads within the city, including proposed arterial and collector roads necessitated by new land development activity generating traffic.~~

~~—PERSON. An individual, any business entity including but not limited to a developer, corporation, governmental agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other entity.~~

~~§ 183.33 RULES OF CONSTRUCTION.~~

~~—In the construction of this subchapter, the rules set out in this section shall be observed unless such construction is inconsistent with the manifest intent of the City Council. The rules of construction and definitions set out herein shall not be applied to any part of this section that contains any express provisions excluding such construction or where the subject matter or content of such section would be inconsistent with this section.~~

~~—(A) Generally. All provisions, terms, phrases, and expressions contained in this section shall be liberally construed in order that the true intent and meaning of the City Council may be fully carried out. Terms used in this section, unless otherwise specifically provided, shall have the meanings prescribed by the Florida Statutes for the same terms.~~

~~—(B) Text. In case of any difference of meaning or implication between the text of this subchapter and any figure, the text shall control.~~

~~—(C) Delegation of authority. Where there is a provision requiring the head of a department or some other city officer to do some act or to perform some duty, it is to be construed to authorize that person to delegate professional level subordinates to perform the duty, unless the terms of the provision or section specify otherwise.~~

~~—(D) Gender. Words of the masculine gender shall be construed to include the feminine and vice versa.~~

~~—(E) Day. A calendar day.~~

~~—(F) Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.~~

~~—(G) Number. A word of the singular number only, may extend and be applied to several persons and things as well as to one (1) person and thing. The use of the plural number shall be deemed to include any single person or thing.~~

~~—(H) Shall, may. "Shall" is mandatory; "may" is permissive.~~

~~—(I) Tense. Words used in the past tense include the future as well as the past or present.~~

~~—(J) Written or in writing. Any representation of words, letters or figures whether by printing or otherwise.~~

~~—(K) Year. A calendar year unless a fiscal year is indicated.~~

~~§ 183.34 GENERAL REQUIREMENTS.~~

~~—(A) A developer may choose to satisfy the transportation concurrency requirements of the city by making a proportionate fair share contribution, pursuant to the following requirements:~~

~~—(1) The proposed development is consistent with the Comprehensive Plan and applicable Land Development Regulations; and,~~

~~—(2) The city five-year Community Investment Program (CIP) includes a transportation capital improvement that, upon completion, will accommodate additional traffic generated by the proposed development.~~

~~—(B) The city may choose to allow a developer to satisfy transportation concurrency requirements by making a proportionate fair share contribution by contributing to an improvement, that upon completion, will accommodate additional traffic generated by the proposed development, but is not contained in the five-year CIP, where one (1) of the following conditions apply:~~

~~—(1) The city adds the improvement to the five-year CIP no later than the next regular capital improvements update of the Comprehensive Plan, provided that the improvement is financially feasible as defined by Fla. Stat. § 163.3180(16)(b)(1); or,~~

~~—(2) If the funds in the five-year CIP are insufficient to fully fund the construction of the improvement, the city may enter into a proportionate fair share agreement with the developer authorizing construction of that amount of development on which the proportionate fair share amount is calculated if the proportionate fair share amount in such agreement is sufficient to pay for one (1) or more improvements which will, in the opinion of the City Council, significantly benefit the impacted transportation system, provided that improvement(s) is(are) adopted into the five-year CIP no later than the next regular capital improvements update of the Comprehensive Plan.~~

~~—(C) Any transportation capital improvement proposed to meet the developer's proportionate fair share obligation must meet the design standards of the city for city-maintained roads and the design standards of the applicable governmental entity for all other roads.~~

~~§ 183.35 APPLICATION PROCESS.~~

~~—(A) A developer who shall commence any land development activity generating traffic that results in a failure of a road segment to achieve transportation concurrency may apply to the city for a proportionate fair share agreement.~~

~~—(B) Prior to submitting an application for a proportionate fair share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options and other relevant issues. If the road segment that has failed to achieve transportation concurrency is on the Strategic Intermodal System, the Florida Department of Transportation shall be requested to participate in the pre-application meeting.~~

~~—(C) Procedures for review of application for proportionate fair share agreement.~~

~~—(1) The developer shall submit an application to the Growth Management Director that includes a non-refundable application fee of five thousand dollars (\$5,000.00) and the following:~~

~~—(a) Name, address and contact information of the developer;~~

~~—(b) A drawing and legal description of the land;~~

~~—(c) Phasing schedule;~~

~~—(d) Description of the requested fair share mitigation;~~

~~—(e) If the requested fair share mitigation involves a road segment on the Strategic Intermodal System (SIS), evidence of concurrence from the Florida Department of Transportation.~~

~~—(f) Traffic study performed by a licensed traffic engineer demonstrating failure of road segment to achieve transportation concurrency.~~

~~—(2) Within twenty (20) days of receipt of the application, the Growth Management Director shall review the application to determine if the application is complete. If it is determined that the application is not complete, the Growth Management Director shall send a written statement to the developer delineating the deficiencies. If such deficiencies are not remedied by the developer within thirty (30) days of receipt of the written notification, then the application shall be deemed abandoned. The Growth Management Director shall grant an extension to cure such deficiencies, provided the developer has shown good cause for the extension and has taken reasonable steps to effect a cure.~~

~~—(3) Once the Growth Management Director determines that the application is complete, written notification shall be sent to the developer. The Growth Management Director shall also forward the developer's application to the City Attorney who shall, within thirty (30) days, draft a proportionate fair share agreement for consideration by the City Council at a meeting no later than sixty (60) days from the date the developer received the notification that the application was complete.~~

~~—(4) No proportionate fair share agreement shall be effective until approved by the City Council.~~

~~§ 183.36 DETERMINATION OF PROPORTIONATE FAIR SHARE OBLIGATION.~~

~~—(A) Proportionate fair share mitigation includes, without limitation, separately or collectively, private funds, contributions of land and contribution of transportation facilities.~~

~~—(B) The methodology used to calculate a developer's proportionate fair share obligation shall be as provided in Fla. Stat. § 163.3180(12), and as represented by the following formula:~~

~~Proportionate Share = [(Development Trips) / (SV Increase)] x Cost~~

~~Where:~~

~~Development Trips = Those trips from the development that are assigned to roadway segment;~~

~~SV Increase = Service volume increase provided by the improvement to roadway segment~~

~~Cost = Adjusted cost of the improvement.~~

~~—(C) For the purposes of determining proportionate fair share obligations, capital improvement costs shall be based upon the actual cost of the improvement as obtained from the CIP, the Brevard MPO Transportation Improvement Program, or the Florida Department of Transportation Work Program. Where such information is not available, the improvement cost shall be determined using one (1) of the following methods:~~

~~—(1) An analysis by the Growth Management Department of costs, adjusted by the Florida Department of Transportation Price Trends Index from the previous year, by cross section type that incorporates data from recent projects; or,~~

~~—(2) The most recent issue of Florida Department of Transportation "Transportation Costs", as adjusted, based upon the type of cross section (urban or rural); locally available data from recent projects on acquisition, drainage, and utility costs; and significant changes in the cost of materials due to unforeseeable events.~~

~~—(D) If the city has accepted an improvement project proposed by the developer, then the value of the improvement shall be determined by using one (1) of the methods provided in this section.~~

~~—(E) If the city accepts any right-of-way dedication for the proportionate fair share payment, credit for the dedication of the non-site related right of way shall be valued on the date of the dedication at one-hundred and twenty percent (120%) of the most recent assessed value of the land, upon which the right-of-way is or will be located, by the Brevard County Property Appraiser or, at the mutual agreement of the city and the developer, by fair market value established by an independent appraisal approved by the city and at no expense to the city. The developer shall supply a certificate of title or title search of the land to the city at no expense to the city. If the estimated value of the right-of-way dedication proposed by the developer is less than the city estimated total proportionate fair share obligation for that development, then the developer must also pay the difference.~~

~~§ 183.37 TRANSPORTATION FACILITIES IMPACT FEE CREDIT.~~

~~—(A) Proportionate fair share mitigation shall be applied as a credit against impact fees. Credits will be given for that portion of the impact fees that would have been used to fund the improvements on which the proportionate fair share contribution is calculated. Additionally, if the proportionate fair share contribution is based on only a portion of the development's traffic, the credit will be limited to~~

~~that portion of the impact fees on which the proportionate fair share contribution is based.~~

~~—(B) At the time the proportionate fair share obligation is being determined, the city will also compute the transportation facilities impact fee obligation for the proposed development. If the developer's proportionate fair share obligation is less than the development's anticipated total transportation facilities impact fee, then the developer must pay the difference to the city.~~

~~§ 183.38 PROPORTIONATE FAIR SHARE AGREEMENTS.~~

~~—(A) Should the developer fail to apply for a building permit within one (1) year of the date of execution of the proportionate fair share agreement, then the agreement shall be considered null and void, and the developer shall be required to reapply in accordance with the provisions of this section.~~

~~—(B) Payment of the proportionate fair share contribution is due in full prior to issuance of the final development order or recording of the final plat and shall be nonrefundable. If the payment is submitted more than one (1) year from the date of execution of the agreement, then the proportionate fair share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to the methodology set forth in § 183.36 and adjusted accordingly.~~

~~—(C) Developer improvements authorized under this subchapter involving dedications to the city must be completed upon final acceptance of the improvements and receipt of a warranty bond. The form of the warranty bond shall be approved by the City Attorney.~~

~~—(D) Developer improvements authorized under this subchapter not involving dedications to city must be completed upon recording of a final plat or upon issuance of a certificate of occupancy, whichever event first occurs.~~

~~—(E) Any requested change to a development project subsequent to a development order will be subject to additional proportionate fair share contributions to the extent the change would generate additional traffic.~~

~~—(F) A developer may submit a letter to withdraw from the proportionate fair share agreement at any time prior to the execution of the agreement. The application fee to the city will be nonrefundable.~~

~~§ 183.39 APPROPRIATION OF FAIR SHARE REVENUES.~~

~~—(A) All proportionate fair share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the CIP, or for use as otherwise established in the terms of the proportionate fair share agreement.~~

~~—(B) In the event a scheduled transportation facility improvement is removed from the CIP, then the revenues collected for its construction shall be applied toward the construction of another improvement within that same corridor that would mitigate the impacts of development pursuant to the requirements of § 183.34(B)(2), as determined by the City Council.~~

~~DEVELOPMENT AGREEMENT~~

~~§ 183.40 SHORT TITLE, AUTHORITY, APPLICABILITY.~~

~~—(A) This subchapter is adopted pursuant to Fla. Stat. § 163.3220(4).~~

~~—(B) The provisions of this subchapter shall apply to all developments within the City that impacts public facilities, such as road, stormwater, utilities, parks, and public safety infrastructure, for which the developer shall be required to improve as a result.~~

~~§ 183.41 PURPOSE AND INTENT.~~

~~—The purpose and intent of this subchapter is to establish a process whereby the impacts of development on City infrastructure can be mitigated by the cooperative efforts of the public and private sectors.~~

~~§ 183.42 DEFINITIONS.~~

~~—For the purpose of this subchapter, the definitions set forth in Fla. Stat. § 163.3221, as may be amended, shall be applicable to this subchapter.~~

~~§ 183.43 APPLICATION PROCESS.~~

~~—(A) A developer seeking to commence land development activity requiring public improvements shall make application to the City to establish a Development Agreement with the City.~~

~~—(B) The application can be for the entire developer project or any phase thereof.~~

~~—(C) The application shall be on a form prescribed by the City and shall be submitted with the required non-refundable application fee.~~

~~—(D) Once the application is determined to be sufficient, the Growth Management Department shall forward the developer's application to the City~~

~~Attorney who shall draft a development agreement or review the draft development agreement put forth by the developer's attorney, for consideration by City Council.~~

~~§ 183.44 DEVELOPMENT AGREEMENT.~~

~~—(A) The development agreement shall include all required components in accordance with Fla. Stat. § 163.3227.~~

~~—(B) A development agreement may include:~~

~~—(1) Any relocation of public or other utilities that is anticipated and an agreement as to which party shall bear the cost of the relocation.~~

~~—(2) An agreement as to the type and amount of surety agreements that will guarantee performance, payment or maintenance, as applicable; provided, that all bonds or letters of credit, for any purpose, shall be on forms acceptable to the city and be issued by an entity acceptable to the city.~~

~~—(3) An agreement as to buffers and visual screens for transition between land uses.~~

~~—(4) An agreement as to which party shall maintain stormwater drainage systems and open spaces.~~

~~—(5) A description of any conditions, terms, restrictions or other requirements or third-party agreements such as agreements with home owner associations or community development districts.~~

~~—(6) A statement regarding how the development will be phased including dates when phases may be commenced or completed.~~

~~—(C) No development agreement shall be effective until approved by the City Council following two public hearings in accordance with Fla. Stat. § 163.3225.~~

~~—(D) In determining whether to approve the development agreement, City Council shall consider the following:~~

~~—(1) The findings required to be made pursuant to Fla. Stat. § 163.3225, as may be amended; and~~

~~—(2) Whether the provisions of the development agreement are beneficial to the public health, safety, and general welfare.~~

~~—(E) Upon execution of the development agreement by both parties, the City shall record the agreement in accordance with Fla. Stat. § 163.3239.~~

~~—(F) Any changes in federal or state law subsequent to the effective date of the development agreement which may affect the rights of either the city or the developer shall be fully applicable as to the development notwithstanding the provisions of the development agreement; provided, however, that such changes in law do not preclude the ability of the parties to the development agreement to comply with the terms of the development agreement.~~

~~—(G) The Growth Management Director, or designee, shall periodically review each development agreement in compliance with Fla. Stat. § 163.3225, as may be amended. The City may inspect the land subject to the development agreement to determine compliance with the terms of the development agreement. The development agreement may be revoked or modified in compliance with Fla. Stat. § 163.3235, as may be amended.~~

~~—(H) A request to amend or cancel a development agreement shall be submitted to the City Council for consideration. The request shall contain the following information:~~

~~—(1) An explanation of the reason for seeking cancellation or amendment of the development agreement shall be attached to the request as Exhibit A.~~

~~—(2) A description of the actual amount of development completed, the size and scope of the resulting plan of development (after cancellation or amendment);~~

~~—(3) A description of development that has occurred on site, including the amount of existing vertical development by land use in gross square feet, dwelling units, or other applicable units of measure; the amount of infrastructure completed at the site; etc. A copy of the approved site development plan, if applicable, shall be attached to the request as Exhibit B; and~~

~~—(4) An identification of the amount of development that is planned (after cancellation or amendment), including the amount of vertical development by land use in gross square feet, dwelling units, or other applicable units of measure; the amount of infrastructure to be completed at the site; etc. A copy of the site development plan, if applicable, for the development as proposed after cancellation or amendment shall be attached to the request as Exhibit C.~~

~~CHAPTER 184: SUBDIVISIONS~~

~~§ 184.01 PURPOSE.~~

~~—These regulations are adopted for the following purposes:~~

~~—(A) To protect and provide for the public health, safety and general welfare of the city.~~

~~—(B) To guide the future growth and development of the city, in accordance with the City's Comprehensive Plan.~~

~~—(C) To protect the character and the economic stability of all parts of the city and to encourage the orderly and beneficial development of all parts of the city.~~

~~—(D) To establish reasonable standards of design and procedures for subdivisions and resubdivisions, in order to further the orderly layout and use of land; to ensure proper legal descriptions and monumenting of subdivided land.~~

~~—(E) To provide for the proper location and widths of streets to facilitate traffic throughout the city, having particular concern to the avoidance of congestion in the streets and highways, and pedestrian traffic movements.~~

~~—(F) To ensure that public facilities are available and will have sufficient capacity to serve the proposed subdivision.~~

~~—(G) To assure the adequacy of drainage facilities; prevent pollution of surface water; safeguard the water table and to encourage the wise use and management of natural resources throughout the city in order to preserve the integrity, stability and beauty of the community and the value of the land.~~

~~§ 184.02 AUTHORITY.~~

~~—This chapter is adopted pursuant to the authority delegated to the city under Fla. Stat. Chapter 177 and Chapter 163.~~

~~§ 184.03 JURISDICTION.~~

~~—These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the city.~~

~~§ 184.04 DEFINITIONS.~~

~~—(A) (1) For the purpose of these regulations, certain numbers, abbreviations, terms and words herein shall be used, interpreted and defined as set forth in this section.~~

~~—(2) Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular; the word “herein” means “in these regulations;” the word “regulations” means “these regulations.”~~

~~—(3) A “person” includes a corporation, a partnership, and an incorporated association of persons such as a club; “shall” is always mandatory; a “building” includes a “structure;” a “building” or “structure” includes any part thereof; “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied.”~~

~~—(B) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—(1) ALLEY. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.~~

~~—(2) APPLICANT. The owner of land proposed to be subdivided or his/her representative. Consent shall be required from the legal owner of the premises.~~

~~—(3) ARTERIAL ROAD. A road or street that is designed or functions to move larger volumes of traffic over relatively long distances. A road identified as an arterial on the adopted future traffic circulation map in the Comprehensive Plan.~~

~~—(4) BENCHMARK. A relatively permanent object as described in Section 61G17-6.002(1), Florida Administrative Code.~~

~~—(5) BLOCK. A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways or boundary lines of municipalities.~~

~~—(6) BOND. Any form of security including a cash deposit, surety bond, collateral, property or instrument of credit in an amount and form satisfactory to the City Attorney and City Engineer.~~

~~—(7) CERTIFICATE OF COMPLETION (SUBDIVISION). A certificate issued by the City Engineer subsequent to final inspection certifying that all improvements have been completed in conformity with the requirements of this subchapter, the approved construction plans and specifications.~~

~~—(8) CERTIFICATE OF OCCUPANCY (CO). A written permission to occupy a structure granted by the Chief Building Official.~~

~~—(9) CERTIFIED SURVEY. A survey, sketch, plan, map or other exhibit which is said to be certified when a written statement regarding its accuracy or conformity to specified standards is signed and sealed by a registered surveyor licensed by the State of Florida.~~

~~— (10) COLLECTOR ROAD. A road or street that is designed or functions to collect traffic from local neighborhood roads and transmit them to arterial roads. A road identified as a collector on the adopted future traffic circulation map in the Comprehensive Plan.~~

~~— (11) COMPREHENSIVE PLAN. The future land use map series, future land use element and other elements of the City Palm Bay Comprehensive Plan adopted October 6, 1988, by the City Council and as amended which establishes goals, objectives, policies and criteria relating to the use of land, the provision of supporting services and the protection of natural resources and the environment.~~

~~— (12) CONCEPT PLAN. A sketch preparatory to the preparation of the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the city as to the form of the plat and the objectives of these regulations.~~

~~— (13) CONSTRUCTION PERMIT. The permit to begin construction of improvements according to the construction plans and specifications approved under this chapter.~~

~~— (14) CONSTRUCTION PLANS. The engineering drawings, specifications, tests and data necessary to show construction of the proposed improvements in a subdivision.~~

~~— (15) CUL-DE-SAC. A street with an intersection on one end and a closed turning area on the other.~~

~~— (16) DRAINAGE. Swales, ditches, storm sewers, seepage basin, culverts, side drains, retention or detention basins, streets, cross drains, canals and other facilities used to manage stormwater.~~

~~— (17) EASEMENT. Authorization by a property owner for the use by another, and for a specified purpose, such as public or private utilities, drainage, sanitation, ingress or egress or other public or private uses, of any designated part of his/her property.~~

~~— (18) ESCROW. A deed, a bond, money or a piece of property delivered to a third person to be delivered by him/her to the grantee only upon fulfillment of a condition.~~

~~— (19) FINAL PLAT. The final map of all or a portion of a subdivision which is presented for final approval.~~

~~— (20) GRADE. The slope of a road, street, drainage swale or other public way, specified in percentage terms.~~

~~— (21) HIGHWAY, LIMITED ACCESS. A freeway, or expressway, providing a trafficway for through traffic, in respect to which owners or occupants of abutting property on lands and other persons have no legal right to access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.~~

~~— (22) LOCAL STREET. Any street or road not designated as a collector, arterial or limited access street in the Comprehensive Plan. The primary function of a local street is to serve the adjacent property by providing the initial access to the roadway network. All local streets are minor streets.~~

~~— (23) LOT. A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.~~

~~— (24) LOT CORNER. A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding 120 degrees.~~

~~— (25) METES AND BOUNDS. A land description method that details all the boundary lines of land, together with their terminal points and angles.~~

~~— (26) MINOR SUBDIVISION. The division of a parcel of land, whether improved or unimproved, into ten (10) or less contiguous lots or parcels of land, designated by reference to the number or symbol of the lot or parcel contained in the plat of such subdivision, for the purpose, whether immediate or future, of transfer of ownership. However, the division of land into parcels of more than five (5) acres which all have minimum street frontage and do not involve any change in street lines or public easements of whatsoever kind may be deemed not to be a minor subdivision within the meaning of this chapter. The term includes a re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.~~

~~— (27) N.A.V.D. 88. The North American Vertical Datum of 1988.~~

~~— (28) N.G.V.D. 29. The National Geodetic Vertical Datum of 1929.~~

~~— (29) P.C.P. A permanent control point as defined in F.S. Ch. 177.~~

~~— (30) PEDESTRIAN WAY (PEDWAY). A transportation facility designed for use by pedestrians which may also be used by other forms of nonmotorized transportation.~~

~~—(31) PRELIMINARY SUBDIVISION PLAT. A map indicating the proposed layout of a development and related information that is submitted for preliminary approval.~~

~~—(32) P.R.M. A permanent reference monument as defined in F.S. Ch. 177.~~

~~—(33) PUBLIC IMPROVEMENTS. Those improvements required for use by the general public, including but not limited to streets, sidewalks, drainage, preservation areas and other easements and rights-of-way, street signs or water and sewer facilities.~~

~~—(34) REGISTERED ENGINEER. An engineer properly licensed and registered in the State of Florida.~~

~~—(35) REGISTERED LAND SURVEYOR. A land surveyor properly licensed and registered in the State of Florida.~~

~~—(36) RESUBDIVISION. A change in a map of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.~~

~~—(37) RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term RIGHT-OF-WAY for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right of way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.~~

~~—(38) SUBDIVIDER. The owner of record or his/her authorized representative of a tract of land that is to be used as a subdivision within the scope of this subchapter.~~

~~—(39) SUBDIVISION. The division of a parcel of land, whether improved or unimproved, into eleven (11) or more contiguous lots or parcels of land, designated by reference to the number or symbol of the lot or parcel contained in the plat of such subdivision, for the purpose, whether immediate or future, of transfer of ownership. However, the division of land into parcels of more than five (5) acres which all have minimum street frontage and do not involve any change in street~~

~~lines or public easements of whatsoever kind may be deemed not to be a subdivision within the meaning of this chapter. The term includes a re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided.~~

~~— (40) TOPOGRAPHICAL MAP/SURVEY. A map/survey that represents the physical features of an area. Refer to Section 61G17-6.002(m), F.A.C.~~

~~— (41) TRACT. The total actual parcel of land that is being divided into a subdivision. TRACT may also refer to a smaller parcel of land platted for other purposes than a residential building lot; including but not limited to; retention areas, landscape and/or recreational areas.~~

~~— (42) UNDUE HARDSHIP. A hardship which exists due to conditions or circumstances peculiar to the applicant's land and does not result from the actions of the applicant.~~

~~§ 184.05 SUBDIVISION APPLICATION AND APPROVAL PROCESS.~~

~~— (A) Classification of subdivisions.~~

~~— (1) Whenever any subdivision of land is proposed, before any contract is made for the sale of any part thereof and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdividing owner and or his/her authorized agent, shall apply for and secure approval of such subdivision in accordance with the following procedure:~~

~~— (a) Pre-application concept plan.~~

~~— (b) Preliminary plat.~~

~~— (c) Final subdivision plat.~~

~~— (2) In instances where the subdivision of land involves no public improvements, the preliminary plat and final plat application may be combined.~~

~~— (B) Submission dates; preliminary and final plat. Applications must be submitted to the Land Development office prior to 5:00 p.m. on the first day of the month to be processed for consideration by the Planning and Zoning Board the following month. If the first of the month happens to fall on a weekend or holiday the applications must be submitted prior to 5:00 p.m. on the previous working day.~~

~~§ 184.06 PREAPPLICATION CONFERENCE/CONCEPT PLAN.~~

~~— (A) Before submitting an application for preliminary subdivision approval, an applicant shall meet with city staff to discuss the conceptual plans and designs of~~

~~the proposed subdivision. This preapplication meeting shall be coordinated through the Land Development Division and shall be held as soon as practicable. City staff representatives may include members from the following city agencies: land development; engineering; utilities (water and sewer); and fire. Concept plans provided by the applicant should include a general sketch of plans for development, including lot sizes, lot locations, street layout, utilities, amenities, surrounding property conditions, design themes, etc.~~

~~—(B) The purpose of the preapplication conference is to provide an informal review and input in the formative stages of the subdivision design which should help to expedite applications and thus reduce plan design and development costs for the applicant.~~

~~§ 184.07 PRELIMINARY PLAT.~~

~~—(A) Application procedure. After a preapplication conference has been held, an applicant can submit an application for preliminary plat approval. Such an application must be made on forms available from the City's Land Development office. The application must be complete and accompanied by two (2) copies of the preliminary plat as city described in these regulations, a CD or other approved electronic copy of the plat, a filing fee, and a list of all owners of adjacent property and/or property directly opposite of the proposed subdivision. Such property owner information shall be obtained from the most recent County Tax Appraiser's rolls.~~

~~—(B) Application processing. The Land Development Division shall process and coordinate the review of the preliminary plat application by the appropriate city departments in accordance with F.S. § 166.033. The appropriate city departments are to review and comment on the submitted information. Written comments from the city departments are to be returned to the Land Development Division to be incorporated into a staff report generated by the Land Development Division.~~

~~—(C) Public meetings. Once the application is determined to be sufficiently complete and meets all the regulations required by the City, a preliminary plat application shall be heard by the Planning and Zoning Board at the next available regular meeting. Courtesy notice letters of the meeting are to be sent to the owners of abutting and opposite properties of the proposed subdivision. Failure to mail or receive such courtesy notice shall not affect any action or proceedings taken however. Notice of such a meeting shall also be posted on the property for which subdivision is sought.~~

~~—(D) Preliminary approval.~~

~~—(1) After the Planning and Zoning Board has reviewed the preliminary plat, the city staff report with its recommendations, and testimony and exhibits submitted at the public meeting, the Planning and Zoning Board shall recommend approval, approval with conditions, or disapproval of the preliminary plat to the City Council in accordance with the timelines set forth in F.S. § 166.033.~~

~~—(2) The City Council shall then approve, approve with conditions, or disapprove the preliminary plat based on the Planning and Zoning Board recommendations, the City staff report, and the testimony and exhibits submitted at public hearings.~~

~~—(E) Effective period of preliminary approval. The approval of a preliminary plat shall be effective for a period of one year at the end of which time final approval on the subdivision must have been obtained from the City Council, although the plat need not yet be signed and filed with the County Clerk of Records. Any plat not receiving final approval within the period of time set forth herein shall be null and void, and the developer shall be required to resubmit a new plat for preliminary approval subject to all new zoning and subdivision regulations.~~

~~—(F) Zoning regulations. Every plat shall conform to existing zoning regulations and subdivision regulations applicable at the time of proposed final approval, except that any plat which has received preliminary approval shall be exempt from any subsequent amendments to the zoning ordinance rendering the plat nonconforming as to bulk or use, provided that the final approval is obtained within the one-year period.~~

~~—(G) Effect of approval of preliminary plat. Approval of the preliminary plat shall not constitute approval of the final plat. It shall only be deemed an expression of approval of the layout submitted on the preliminary plat as a guide for the preparation of the final plat.~~

~~§ 184.08 FINAL SUBDIVISION PLAT.~~

~~—(A) Application procedure. Following the approval of the preliminary plat, the applicant if he/she wishes to proceed with the subdivision, shall submit an application for final plat approval to the Land Development office. Such an application must be made on forms available from the City's Community Planning and Economic Development office. The application must be complete and accompanied by two (2) copies of the final plat and construction plans as described in these regulations, a CD or other approved electronic copy of the plat, a filing fee, and a list of all owners of adjacent property and/or property directly opposite~~

~~of the proposed subdivision. Such property owner information shall be obtained from the most recent County Tax Appraiser's rolls.~~

~~—(B) Final plat to conform to preliminary plat. The final plat shall conform substantially to the preliminary plat as approved, and if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he/she proposes to record and develop at the time, if such portion conforms to the requirements of this chapter.~~

~~—(C) Application processing. The processing of the final plat application will be substantially the same as the processing of the preliminary plat application described previously in § 184.07.~~

~~—(D) Public meetings. The final plat application shall be heard by the Planning and Zoning Board at the next available regular meeting. Courtesy notice letters of the meeting are to be sent to the owners of abutting and opposite properties of the proposed subdivision. Failure to mail or receive such courtesy notice shall not affect any action or proceedings taken however. Notice of such a meeting shall also be posted on the property for which subdivision is sought.~~

~~—(E) Final approval. After the Planning and Zoning Board has reviewed the final plat and construction plans, the city staff report with its recommendations, and testimony and exhibits submitted at the public meeting, the Planning and Zoning Board shall forward its recommendations for final action to the City Council. Upon receiving the recommendation of the Planning and Zoning Board including the city's staff report, the City Council shall hold a public meeting and shall act to either approve, approve with conditions, or disapprove such application.~~

~~§ 184.09 SIGNING AND RECORDING OF SUBDIVISION PLAT.~~

~~—(A) Signing of the plat.~~

~~—(1) When a bond is required, city officials (City Clerk, City Surveyor, and Mayor) shall endorse approval on the plat after the bond has been approved by the City Attorney and City Engineer, and all the conditions of approval pertaining to the plat have been satisfied.~~

~~—(2) When installation of improvements is required, city officials (City Clerk and Mayor) shall endorse approval on the plat after all conditions of approval on the plat have been satisfied and all improvements satisfactorily completed. There shall be written evidence or certificate of completion that the required public facilities have been installed in manner satisfactory to the City's Public Works Director~~

~~and/or his/her designee and that the necessary dedication of public lands and improvements has been accomplished.~~

~~—(B) Recording of the subdivision plat. Upon the signing of the reproducible mylar of the plat by the appropriate city officials, the subdivider shall file the plat with the County Clerk of Records within thirty (30) days of the date of the last signature. After filing the plat with the County Clerk of Records, the subdivider shall provide the City Clerk's office with a reproducible mylar of the recorded plat and three (3) prints of the plat. The mylars and prints are then to be forwarded to the appropriate city departments for their files.~~

~~§ 184.10 CONSTRUCTION APPROVAL.~~

~~—(A) Commencement of construction prior to approval of plat. No construction of any kind shall be permitted prior to final subdivision approval by the City Council.~~

~~—(B) Construction authorization. Prior to beginning any construction of the proposed subdivision, the applicant must have a preconstruction meeting with the Public Works Department. Authorization from the City Engineer in the form of a construction permit must also be obtained before any construction may begin.~~

~~—(C) Clearing. Prior to commencement of clearing and/or land alteration activities, the applicant must receive the required Site Work Permit from the Land Development Division.~~

~~§ 184.11 IMPROVEMENTS AND PERFORMANCE AND MAINTENANCE BONDS.~~

~~—(A) Performance bond. As a condition for approval of a final plat by the City Council, the subdivider may be required to deposit with the City Clerk a bond or other security binding the subdivider to payment to the city to assure completion of all streets, drainage and other public improvements both on-site and off-site as may be required. The bond or other security will be in the amount of one hundred twenty-five percent (125%) of value of all Public Improvements. The City Council may conditionally approve the final plat to become effective at such time as the required bond or other security shall be deposited with the City Clerk within a time fixed by the City Council. The bond shall be executed by the subdivider as principal and may have at least one (1) good and sufficient surety approved by the city. It is the purpose and intent of this section that the subdivider provide such security as the city shall deem to be reasonably necessary to assure completion. The requirement of a surety on the bond shall be at the discretion of the City Council; however, before the City Council accepts a bond or other security, it must first~~

~~obtain approval from the City Engineer as to the amount and approval from the City Attorney as to the form of the bond or other security.~~

~~—(B) Completion of improvements. If a performance bond is not required, all applicants shall be required to complete, in accordance with the City Councils' decision and to the satisfaction of the City Engineer all public improvements and lot improvements of the subdivision as required in these regulations and to dedicate the same to the city free and clear of all liens and encumbrances on the property prior to city officials signing the plat. The City may allow incremental drawdown of the performance bond as improvements are made.~~

~~—(C) Temporary improvement. The applicant shall build and pay for all costs of temporary improvements required by the city and shall maintain the same for the period specified by the city. Prior to construction of any temporary facility or improvement, the developer shall file with the local government a separate suitable bond for temporary facilities, which bond shall ensure that the temporary facilities will be properly constructed, maintained and removed.~~

~~—(D) Costs of improvements. All required improvements shall be made by the applicants at his/her expense, without reimbursement by the city.~~

~~—(E) Failure to complete improvement. For subdivisions for which no performance bond has been posted, if the improvements are not completed within the period specified by the City Council at the time of final plat approval, the approval shall be deemed to have expired. In those cases when a performance bond has been posted and required improvements have not been installed within the terms of such performance bond, the City Council may declare the bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.~~

~~—(F) Acceptance of dedication offers. Acceptance of formal offers of dedication of public improvements (such as streets, public areas, parks, etc.) shall be in accordance with the procedure and process established in Chapter 182, procedure for acceptance and maintenance of public improvements.~~

~~—(G) Maintenance Bonds. After completion of improvements and exception of dedication, a two (2) year maintenance bond or other security will be required in the amount of twenty-five percent (25%) of all dedicated Public Improvements.~~

~~§ 184.12 INSPECTION OF IMPROVEMENTS.~~

~~—(A) General procedure and fees. The City Public Works Department shall provide for the inspection of required public improvements during construction and~~

~~ensure their satisfactory completion. The applicant shall pay the city an inspection fee as established by resolution pursuant to § 169.004, and the subdivision plat shall not be signed by city officials unless such fee has been paid at the time of application. No building permits, certificate of occupancies, or certificates of completion shall be issued until all fees are paid. If the Public Works Department inspector finds that any of the required improvements have not been constructed in accordance with the city's construction standards and specifications, the applicant shall be responsible for completing the improvements. Wherever the cost of the improvements is covered by a performance bond, the applicant and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.~~

~~—(B) Release of performance bond; certificate of completion. The city will not release nor reduce a performance bond until the City Engineer has submitted a certificate stating that all the required improvements have been satisfactorily completed and until the applicant's engineer or surveyor has certified to the City Engineer, through the submission of a detailed "as-built" survey of the subdivision, indicating location, dimensions, materials and other information required by the City Engineer, that the layout of the line and grade of all public improvements is in accordance with construction plans for the subdivision. Upon such approval and recommendation, the city may accept the improvements for dedication in accordance with the process and procedures outlined in Chapter 182, public improvements.~~

~~§ 184.13 MAINTENANCE OF IMPROVEMENTS.~~

~~—The applicant shall be required to maintain all improvements in the subdivision until acceptance of such improvements by the city according to the process and procedure outlined in Chapter 182, public improvements.~~

~~§ 184.14 DEFERRAL OR WAIVER OF REQUIRED IMPROVEMENTS.~~

~~—The City Council may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interests of the public health, safety and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.~~

~~§ 184.15 ISSUANCE OF BUILDING PERMIT.~~

~~—(A) No building permits shall be issued for any building in the subdivision, except as provided for below, until a certificate of completion has been issued by~~

~~the City Engineer certifying that the subdivision improvements have been completed and the subdivision has been recorded with the County Clerk of Records. The City Engineer shall notify the City Building Department of when a subdivision has received a certificate of completion and thus is open for building.~~

~~—(B) Model homes and developer owned/builder owned homes may be permitted prior to the subdivision improvements receiving a certificate of completion provided the following conditions are adhered to:~~

~~—(1) A stabilized, all weather roadway is provided for fire apparatus to access all structures proposed for permitting;~~

~~—(2) A water source for fire apparatus use shall be provided and approved by the City of Palm Bay Fire Marshal;~~

~~—(3) A waiver of liability shall be provided to the City;~~

~~—(4) All homes proposed for permitting under this section shall maintain a minimum of one hundred (100) feet distance from existing structures not within the subdivision;~~

~~—(5) A maximum of twenty-five (25) structures will be permitted under this section per approved final subdivision plat;~~

~~—(6) The final subdivision plan shall be recorded with and addresses assigned by Brevard County;~~

~~—(7) The builder must bond the estimated cost of demolition of the structures should the subdivision improvements not be completed and the building permit expires or is revoked. Said demolition must occur within one (1) year of notification from the City or the City shall demolish the structures utilizing the bond proceeds;~~

~~—(8) In no case shall a Certificate of Occupancy be granted for a home until the certificate of completion has been issued.~~

~~§ 184.16 DESIGN IMPROVEMENT AND RESERVATION STANDARDS.~~

~~—(A) Conformance to applicable rules and regulations.~~

~~—(1) In addition to the requirements established herein, all subdivision plats shall comply with the following laws, rules and regulations:~~

~~—(a) All applicable statutory provisions.~~

~~—(b) The City Comprehensive Plan.~~

~~—(c) The zoning ordinance of the city.~~

~~——(d) The regulations established in the public works manual.~~

~~——(e) The regulations and rules of any appropriate state or county agency (such as, St. Johns River Water Management District, Florida Department of Transportation, the Environmental Health Services Division, etc.)~~

~~——(2) Plat approval may be withheld if a subdivision is not in conformity with the above guides or policy and purposes of these regulations.~~

~~——(B) Self-imposed restrictions. If the subdivider places restrictions on any of the land contained in the subdivision greater than those required by the zoning ordinance or these regulations, such restrictions or reference thereto may be required to be indicated on the subdivision plat, or the City Council may require that deed restrictions be recorded with the County Clerk of Records and a copy filed with the city, including any subsequent amendments to the restrictions.~~

~~——(C) Monuments. Concrete monument reference markers shall be placed at all block corners and set by a licensed professional surveyor.~~

~~——(D) Subdivision name. The proposed name of the subdivision shall not duplicate, or too closely approximate phonetically, the name of any other subdivision in the greater city area.~~

~~§ 184.17 DESIGN OF LOTS AND BLOCKS.~~

~~——(A) Lot design.~~

~~——(1) Lot arrangement and dimensions.~~

~~——(a) The lot size, width, depth, shape, orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.~~

~~——(b) Lot dimensions shall conform to the requirements of the zoning ordinances.~~

~~——(c) Residential lots where not served by public sewers shall be of sufficient size to accommodate a septic tank and leaching field. State and local health regulations and standards, as well as soil conditions, shall control the lot size in these circumstances.~~

~~——(d) The depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for off-street service and parking facilities required by the type of use and development contemplated.~~

~~—(2) Lot access to existing streets. The subdivision of land shall be such as to provide each lot, by means of a public street, satisfactory access to an existing public street. The use of easements shall not be permitted to provide sole access to public streets.~~

~~—(3) Double frontage lots.~~

~~—(a) Double frontage and reverse frontage lots should be avoided, except where essential to provide separation of residential development from traffic arteries and major collectors or to overcome specific disadvantages of topography and orientation.~~

~~—(b) A six (6) foot high wall, fence and berm (or optical vegetation) combined with landscape material located within a minimum ten (10) foot wide no access easement shall be provided along lot lines abutting arterial and major collector streets or other disadvantageous uses as determined by City Council.~~

~~—(4) Residential flag lots.~~

~~—(a) Residential flag lots shall have a minimum width of twenty-five feet (25').~~

~~—(b) Individual lots shall have fee simple ownership of their flag stem.~~

~~—(c) Such access shall not include a street, road, right-of-way or easement dedicated to the city or "the public" by a plat or other recorded instrument.~~

~~—(d) All other Code requirements of the applicable zoning district shall apply.~~

~~—(B) Block design.~~

~~—(1) General block size and shape. The lengths, widths and shapes of blocks shall be determined with due regard to the following:~~

~~—(a) Zoning requirements as to lot sizes and dimensions;~~

~~—(b) Needs for convenient access, circulation, control and safety of street traffic;~~

~~§ 184.18 ROAD DESIGN.~~

~~—(A) General requirements.~~

~~—(1) Arrangement and character.~~

~~—(a) The arrangement, character, extent, width, grade and location of all streets shall conform to the Comprehensive Plan and shall be considered in their relation to existing and planned streets, topographical conditions and public convenience and safety, and in their appropriate relation to the proposed uses of~~

~~the land to be served by such streets. Roadway design shall meet the minimum Florida Department of Transportation design criteria.~~

~~— (b) Where no applicable location standards are shown in the Comprehensive Plan, the arrangement of streets in a subdivision shall either:~~

~~— 1. Provide the continuation or appropriate projection of existing principal streets in surrounding areas; or~~

~~— 2. Conform to a plan for the neighborhood, adopted by the City Council to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.~~

~~— (2) Street names. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Land Development Division and submitted to the County E-911 office.~~

~~— (B) Design standards.~~

~~— (1) Street improvements. In order to provide for roads of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, sanitation and road maintenance equipment, and to coordinate roads so as to compose a convenient system and avoid undue hardships to adjoining properties, the following road standards are hereby required:~~

~~— (a) Street improvements shall be provided in each new subdivision in accordance with the Public Works Manual and the requirements described in the following schedules.~~

~~— (b) The standards and specifications for each general type of development shall be as follows:~~

~~— 1. For apartment, townhouse and similar multifamily residential types; one-family detached dwellings; and low density rural residential dwellings; roads shall contain fifty (50) feet of right-of-way with twenty-two (22) feet of paving for Local Streets, with a closed drainage system; and sixty (60) feet of right-of-way with twenty-two (22) feet of paving, for Local Streets with an open drainage system.~~

~~— 2. For commercial, industrial and other types, the standards will be as determined by the Public Works Director.~~

~~— 3. Arterial streets and cross sections in accordance with the Comprehensive Plan and as determined by the Public Works Director.~~

~~4. For streets along development boundaries and streets connecting the development with an existing improved system.~~

~~5. For streets, curbs, sidewalks, driveways, etc., the city hereby adopts the public works manual and is made a part hereof by reference. All subdivision improvements shall comply with these standards insofar as they are applicable.~~

~~(2) Layout of local street. Local streets shall be so laid out that their use by through traffic will be discouraged.~~

~~(3) Subdivision abuts arterial or major collector street. Where a subdivision abuts an existing or proposed arterial or major collector street, the City Council may require frontage access streets, reverse frontage with screening consisting of a six foot wall, fence or berm with landscaping contained in a nonaccess reservation along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.~~

~~(4) Subdivision borders on railroad or limited access highway. When a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the City Council may require a street or alley approximately parallel to and on each side of such right-of-way.~~

~~(5) Reserve strips prohibited; exception. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the city under conditions approved by the City Council.~~

~~(6) Street jogs. Street jogs with center line offsets of less than one hundred twenty-five (125) feet shall be avoided.~~

~~(7) Sight distance for curves. A minimum sight distance will meet current FDOT standards.~~

~~(8) Street intersections.~~

~~(a) Street intersections shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than sixty (60) degrees.~~

~~(b) Property lines at street intersections shall be rounded with a radius of twenty-five (25) feet, or with a greater radius where the City Engineer may deem it necessary. The City Engineer may permit comparable cutoffs or chords in place of rounded corners.~~

~~— (9) Right-of-way widths. Public road right-of-way widths shall be as shown in the Palm Bay Comprehensive Plan, and shall not be less than as follows, unless otherwise determined by the Public Works Director:~~

~~Street Type Right of way Width (feet)~~

~~Arterial 160~~

~~Collector 100~~

~~Local (open drainage) 60~~

~~Local (closed drainage) 50~~

~~— (10) Half streets; cul-de-sacs. Half streets shall be prohibited. If a half street is in existence and adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Cul-de-sacs will be required if determined necessary by the Planning and Zoning Board.~~

~~— (11) Dead-end streets. Dead-end streets, designed to be so permanently, shall not be longer than one thousand (1000) feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least eighty (80) feet, and a street property line diameter of at least one hundred (100) feet.~~

~~— (12) Street grades. No street grade shall be less than three-tenths of one (0.30 of 1%) percent.~~

~~— (13) Drainage grades. No drainage grade, including swales, and curbs and gutters, shall be less than two-tenths of one (0.2 of 1%) percent. Swales shall be a minimum of one-tenth of one (.01 of 1%) percent.~~

~~— (14) Alleys. The minimum width of any alley right-of-way shall be twenty (20) feet. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement. Dead-end alleys shall be avoided, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the City Engineer.~~

~~— (15) Traffic studies. Residential subdivisions shall be required to submit a traffic study prepared by a licensed transportation engineering firm in accordance with the City of Palm Bay Standardized Traffic Impact Study Guidance Manual.~~

~~§ 184.19 DESIGN OF STORMWATER DRAINAGE.~~

~~— General requirements. A stormwater drainage system shall be provided for all subdivisions. The system shall be designed and constructed to be in accordance~~

~~with the City Stormwater Management and Conservation Floodplain and Stormwater Management Ordinance (Chapter 174), the Public Works Manual, and any other applicable laws of any other governmental agencies such as the St. Johns River Water Management District, the Melbourne Tillman Water Control District, etc.~~

~~§ 184.20 DESIGN OF WATER AND SEWERAGE FACILITIES.~~

~~—(A) General requirements. In those subdivisions where the extension of and/or connection to the City Utilities Water and Sewer System is required, the applicant shall design and install the water and sewer facilities in a manner prescribed by the standards and specifications of the Palm Bay Utilities Department. Any new subdivisions shall be served with centralized water and waste water facilities.~~

~~—(B) Fire hydrants. The applicant shall provide fire hydrants that conform to the requirements of Chapter 177, Fire Prevention and Protection.~~

~~—(C) Supply for fire hydrants and other fire suppression facilities. Water supply lines necessary for supplying fire hydrants or other fire suppression facilities, including but not limited to fire sprinkler facilities, shall be separate and distinct line systems. Common use of supply lines for any other purpose is prohibited.~~

~~§ 184.21 SIDEWALK/PEDESTRIAN WAYS.~~

~~—(A) General requirements. Sidewalks/pedestrian ways are to be provided on all streets in all new subdivisions. The design and construction of sidewalks/pedestrian ways shall be in conformance with the Public Works Manual. Where there are no existing sidewalks adjacent to the proposed subdivision, the developer may post a Sidewalk Bond (or Cash Bond) equal to 125% of the cost of constructing the sidewalk and any necessary ramps and or cross-walk striping. A cost estimate shall be submitted by the Project Engineer during the final subdivision process, for city staff review. The city shall put the bond into escrow until such a time as the city provides sidewalks in the vicinity of the subdivision.~~

~~—(B) Waiver from sidewalk requirement. The City Council may waive the requirement for sidewalks where it determines and finds that sidewalks may be inappropriate for the subdivision being proposed (for example, large acre rural subdivision that do not connect to an existing or proposed sidewalk system).~~

~~—(C) Sidewalk connections. Required sidewalks shall connect to the nearby existing sidewalks and/or sidewalk locations shown on the Sidewalk Master Plan. Such connections must be made if the existing or planned sidewalk is within five hundred (500) feet of the closest subdivision sidewalk. Such connection shall be~~

~~identified during the preliminary plat process and shall be identified on the construction plans and as-built survey.~~

~~§ 184.22 UTILITIES AND EASEMENTS.~~

~~—(A) Utilities. Except for the main feeder line, service lateral distribution utility lines of all kinds, including electrical power and light, telephone and telegraph, cable television, water, sewer and gas shall be constructed and installed beneath the surface of the ground unless all lots are one (1) acre or greater in size. The underground installation of incidental appurtenances such as transformer boxes, pedestal mounted terminal boxes, meter boxes for electricity or similar hardware necessary for the provision of electric and communication utilities shall not be required. Below ground level installation shall not be required for major electric and communication feeder lines which serve more than one subdivision or which connect utility substations. If the physical condition of the tract prevents underground installation of utilities, the City Council may waive the requirement for underground installation of utilities in accordance with this code.~~

~~—(B) Easements.~~

~~—(1) Utility and drainage easements shall be provided where necessary. The location and width of easements shall be drawn on the plat and the easements intended use shall be clearly stated.~~

~~—(2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse as will be adequate for the purpose.~~

~~§ 184.23 PUBLIC USES.~~

~~—Where deemed essential by the City Council upon consideration of the particular type of development proposed in the subdivision, and especially in large-scale neighborhood unit developments not anticipated in the Comprehensive Plan, the City Council may require the dedication or reservation of such other areas or sites of a character, extent and location suitable to the needs created by such development for parks and other public purposes. The purpose of all tracts of land shall be designated on the plat.~~

~~§ 184.24 PRESERVATION OF NATURAL AND HISTORIC FEATURES.~~

~~—In all subdivisions, the applicant is required to take reasonable measures to preserve all natural, archeological and historic features which are consistent with~~

~~the City Comprehensive Plan. Some of these features include large specimen trees, water resources, archeological, historic structures and similar community assets.~~

~~§ 184.25 NONRESIDENTIAL SUBDIVISIONS.~~

~~—(A) General. If a proposed subdivision includes land that is zoned for commercial or industrial uses, the layout of the subdivision with respect to such land shall make such provision as the City Council may require. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the City Council that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity.~~

~~—(B) Standards. The following principles and standards shall be observed:~~

~~—(1) Special requirements over and above those listed in these regulations may be imposed by the city with respect to public infrastructure, such as streets, drainage, water and sewerage, etc., to accommodate the type of commercial and industrial development anticipated.~~

~~—(2) The applicant shall make reasonable efforts to protect contiguous residential areas from the proposed commercial or industrial subdivision. These provisions include a requirement of a minimum twenty five (25) foot wide permanent landscape buffer easement abutting all residentially zoned properties. Streets which carry nonresidential traffic shall not be built adjacent to the boundaries of residential areas. The commercial and industrial subdivision shall not have direct vehicular access to a local residential street.~~

~~§ 184.26 SPECIFICATIONS FOR DOCUMENTS; PREAPPLICATION CONCEPT PLAN.~~

~~—Concept plans shall show in sketch form such information as is necessary to provide an informal discussion and review of the proposed subdivision. This information may include the proposed street pattern, typical lot sizes, stormwater management facilities in relation to existing natural conditions of the site and its surroundings, typical building sizes, proposed utilities, etc. Other general information such as existing site conditions, soil conditions, flood plan data, topography, vegetation and surrounding property conditions should also be noted.~~

~~§ 184.27 PRELIMINARY PLAN.~~

~~—(A) Submission. Three (3) copies of the preliminary plat, a CD or other approved electronic copy of the plat and the required supplementary material shall be submitted to the Land Development office along with a completed written application. The preliminary plat shall be at a scale of two hundred (200) feet to one (1) inch or larger, with a preferred scale of one hundred (100) feet to one (1) inch.~~

~~—(B) Design and required information. The preliminary plat shall be designed in conformity with the design standards established herein and shall contain the following information:~~

~~—(1) The title and certifications, the present tract designation according to official records in the office of the appropriate recorder, the title under which the proposed subdivision is to be recorded, with the names and addresses of the owners, and a notation stating the approximate acreage and the scale and north arrow;~~

~~—(2) All streets, including their names and right-of-way widths;~~

~~—(3) Other rights-of-way and easements, including their locations, widths and purposes;~~

~~—(4) The location of utilities, if not shown on other exhibits;~~

~~—(5) The lot lines, lot numbers and block numbers;~~

~~—(6) The sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses;~~

~~—(7) The site, if any, for multi-family dwellings, shopping centers, churches, industries or other nonpublic uses, exclusive of single-family dwellings.~~

~~—(8) Site data, including but not limited to, the number of residential lots, typical lot sizes and the approximate number of acres in parks;~~

~~—(9) The protective covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development.~~

~~—(10) Existing conditions such as boundary lines, adjacent easements showing their locations, widths and purposes, streets on or adjacent to the subdivision showing their right-of-way widths and locations, adjacent utilities including the location, size and invert elevation of sanitary sewer, the location and size of water mains, and the location of fire hydrants, electric poles, telephone poles and street lights. If water mains and sewers are not on or adjacent to the tract, the directions~~

~~and distance to and size of the nearest ones shall be shown, indicating the invert elevation of the sewers.~~

~~—(11) The approximate direction and gradient of the ground slope on adjacent land shall be shown including any embankments or retaining walls. Adjacent platted land shall be referred to by book and page number and subdivision title.~~

~~§ 184.28 FINAL SUBDIVISION PLAT AND CONSTRUCTION PLANS.~~

~~—(A) Submission. Three (3) copies of the final plat, a CD or other approved electronic copy of the plat and construction plans shall be submitted with a completed application to the Land Development office. The final plat shall be drawn in ink on tracing cloth on sheets twenty-four (24) inches wide by thirty (30) inches long and shall be at a scale of two hundred (200) feet to one (1) inch or larger with a preferred scale of one hundred (100) feet to one (1) inch. Where necessary, the plat may be on several sheets accompanied by an index sheet.~~

~~—(B) Design and contents of the final plat. The final plat and construction plans for the subdivision shall be designed and in conformity with the design standards established herein and must show the following information:~~

~~—(1) The final plat shall be prepared in conformance with the requirements of the applicable Florida Statute;~~

~~—(2) The primary control points, approved by the City Engineer, or descriptions and “ties” to such control points to which all dimensions, angles, bearings and similar data on the plat shall be referred;~~

~~—(3) The tract boundary lines, right-of-way lines of streets, easements and other rights-of-way, and property lines of residential lots and other sites, with accurate dimensions, bearing or deflection angles, and radii, arcs and central angles of all curves;~~

~~—(4) The name and right-of-way width of each street or other right-of-way;~~

~~—(5) The location, dimensions and purpose of any easement;~~

~~—(6) Numbers or letters to identify each lot or site;~~

~~—(7) The purpose for which sites, other than residential lots, are dedicated or reserved;~~

~~—(8) The location of monuments;~~

~~—(9) Reference to any recorded subdivision plat of adjoining platted land by plat book, page and number;~~

- ~~— (10) A certification of a surveyor as to the accuracy of the survey and plat;~~
- ~~— (11) A certification of title showing that the applicant is the landowner;~~
- ~~— (12) Statements by the owner dedicating streets, rights-of-way and any sites for public uses.~~
- ~~— (C) Design and contents of the construction plans. The construction plans shall show the following information:~~
 - ~~— (1) The title, scale, north arrow and datum;~~
 - ~~— (2) The plans of streets and drainage showing grades approved by the City Engineer and any other public improvements; such plans shall be drawn to city standard scales and elevations and shall be based on datum plane approved by the City Engineer and shall be in conformance with the design specifications of the Public Works Manual of the city.~~
 - ~~— (3) Two copies of stormwater calculations.~~
 - ~~— (4) A tree survey meeting the requirements of Chapter 180, trees and shrubbery.~~

~~§ 184.29 INTERPRETATION AND CONFLICT.~~

- ~~— (A) In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.~~
- ~~— (B) Where the conditions imposed by any provisions of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other applicable law, ordinance, rule or regulation of any kind, the regulations which are more restrictive or impose higher standards or requirements, shall govern.~~

~~§ 184.30 RESUBDIVISION OF LAND.~~

- ~~— For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such plat or map, or any lot line, or if it affects any map or plan legally reached prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the City Council by the same procedure, rules and regulations as for a subdivision.~~

~~§ 184.31 VACATING OF PLAT.~~

~~—(A) Any plat or part of any plat may be vacated by the owner of the premises, at any time before the sale of any lot therein, by a written instrument, to which a copy of such plat shall be attached, declaring the same to be vacated. Such an instrument shall be approved by the City Council in accordance with the procedures established in Fla. Stat. Chapter 177 if the Council finds the vacation of the plat is in the public interest. Such instrument shall then be recorded with the County Clerk of Records.~~

~~—(B) When lots have been sold, the plat may be vacated in the manner herein provided by all the owners of lots in such plat joining in the execution of such writing.~~

~~§ 184.32 VARIANCES.~~

~~—(A) General. Where the City Council finds that undue hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations. The City Council may approve low impact development designed stormwater systems that vary from the design standards above provided the development is certified under the City of Palm Bay's Green Development Incentive Program.~~

~~—(B) Procedures. A petition for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the City Council. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.~~

~~§ 184.33 FEES.~~

~~—(A) Preliminary plat fee. A filing fee as established by resolution pursuant to § 169.004 shall accompany the submission of the preliminary plat.~~

~~—(B) Final plat fee. A filing fee as established by resolution pursuant to § 169.004 shall accompany the submission of the final plat.~~

~~—(C) Vacating of plat fee. A filing fee as established by resolution pursuant to § 169.004 shall accompany the submission of a vacating of plat application.~~

~~§ 184.34 MINOR SUBDIVISIONS.~~

~~—(A) Minor subdivisions. Division of such parcels into no more than ten (10) lots, that comply with the following criteria, shall be considered a minor subdivision and shall be administratively reviewed in two (2) stages: 1) preliminary plat review; and 2) construction plan and final plat review. A minor subdivision may be approved for a division of land if the following conditions are met:~~

~~—(1) All proposed lots are for detached single family residential lots.~~

~~—(2) Any proposed street may not exceed one thousand three hundred twenty (1,320) feet in total length and the new street shall directly connect to an existing public or privately maintained right-of-way.~~

~~—(3) All lots being created shall have fee simple access on a public or privately maintained street.~~

~~—(4) All lots shall meet the minimum lot frontage area and dimensional requirements for the zoning district in which they are located.~~

~~—(5) The subdivision shall be all inclusive and shall not consist of more than one (1) phase of development.~~

~~—(B) Re-plats or subdivisions that do not require the creation of new streets or right-of-way and are not located within a Special Flood Hazard Area may be reviewed under an application for final plat review and approval. A lot grading plan, drainage plan, and wetlands delineation, if applicable, shall be included with the final plat for review.~~

~~—(C) Exemptions. The following are exempt from the subdivision platting process subject to conformance to all other land development regulations, including but not limited to, lot design and lot drainage requirements of the Land Development Code.~~

~~—(1) The division of one (1) parcel or lot into no more than two (2) lots, where both of the proposed lots meet the minimum frontage requirements abutting a public or privately maintained road and there is no change in street lines or easements.~~

~~—(D) Provision of water and sewer. A minor subdivision may be developed under the following parameters:~~

~~—(1) Parcels with city water available to them, meaning existing water lines running along the parcel's frontage or across the street that the parcel has frontage upon, may be exempt from providing city sewer if existing sewer lines are not located within one quarter (1/4) mile of the parcel. This distance shall be measured using existing road right-of-ways. For such a parcel of land, the lots in the minor~~

~~subdivision shall be a minimum of one-half (1/2) acre in size. The subdivision must connect to the city water system.~~

~~— (2) Parcels with city water available to them, and existing sewer lines located within one-quarter (1/4) mile of the parcel, must provide sewer to each lot, regardless of the size of the lots in the subdivision. The subdivision must connect to the city water system.~~

~~— (3) Parcels located within areas that do not have either water or sewer lines available to them shall be required to provide both water and sewer to the subdivision, unless each lot is a minimum of one (1) acre in size. If both water and sewer are brought to the site, then the minimum lot size shall be consistent with what is provided for in the applicable Zoning District.~~

~~§ 184.35 SIMPLE LOT SPLIT/LOT RECONFIGURATION.~~

~~— (A) Simple lot split. The subdividing of a tract, lot or parcel into only two lots (one new lot and the remainder) is allowed if each lot abuts a publicly maintained street which has been duly dedicated and accepted by the city and/or a privately maintained right-of-way, no new streets are created, and there is no change in the length or alignment of an existing street.~~

~~— (1) Simple lot splits do not require the formal platting process but shall be reviewed and approved by the City Manager's designee;~~

~~— (2) Simple lot splits approved by the city manager's designee shall be recorded in public records;~~

~~— (3) If required due to noncompliance or nonconforming conditions, the applicant shall provide the necessary right-of-way to bring the applicable roadway to standards;~~

~~— (4) No property shall be subdivided pursuant to this section more than once per year; and~~

~~— (5) For purposes of this section, the ownership interest in the portion of the lot which abuts a publicly or privately maintained street must be fee simple ownership.~~

~~— (B) Lot reconfigurations. Reconfigured lots shall adhere to the following:~~

~~— (1) Lot reconfigurations do not require a formal platting process but shall be reviewed by the City Manager's designee;~~

~~—(2) Lot reconfigurations approved by the city manager's designee shall be recorded in public records;~~

~~—(3) The lot lines are reconfigured to be in compliance with current regulations;~~

~~—(4) The number of reconfigured lots is less than or equal to the number of existing lots;~~

~~—(5) No easements existing on the subject property would need to be modified, unless approval is granted by the City Manager;~~

~~—(6) The combined area of the new lots is equal to the combined area of the existing lots;~~

~~—(7) Each new lot abuts a publicly maintained street which has been duly dedicated and accepted (or a privately maintained right-of-way); and~~

~~—(8) No new streets are created and there is no change in the length or alignment of an existing street.~~

~~—(C) Submittal.~~

~~—(1) A cover letter describing the project, identifying the project contact person(s) and any other information relevant for city staff review. If the applicant is other than the legal owner, the applicant's interest shall be indicated and the legal owner's authority to apply shall be included in a certified legal form (the lot split application).~~

~~—(2) Completed application form.~~

~~—(3) All applicable fees per as outlined in the fee schedule.~~

~~—(4) Owner authorization (if applicable).~~

~~—(5) Copies of a lot split survey (current property survey, the proposed lot reconfiguration and legal description, signed and sealed, not more than one year old, by a land surveyor registered and licensed in the state, each sheet of the lot split package shall be the same size shall be no larger than 24 inches by 36 inches).~~

~~§ 184.36 ENFORCEMENT AND PENALTIES.~~

~~—(A) It shall be the duty of the Director of Growth Management to enforce the provisions of this chapter and to bring to the attention of the City Code Enforcement Board any violations or lack of compliance.~~

~~—(B) The Code Enforcement Board shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of these regulations.~~

~~CHAPTER 185: ZONING CODE~~

~~GENERAL PROVISIONS~~

~~§ 185.001 TITLE.~~

~~—This chapter shall be known and may be cited as the “City of Palm Bay Zoning Ordinance.”~~

~~§ 185.002 AUTHORITY — ADOPTION.~~

~~—This chapter, together with all future amendments, is adopted under the terms and authority granted by Fla. Stat. Ch. 163 and Ch. 166, and the Charter of the city.~~

~~§ 185.003 APPLICABILITY; CONFORMANCE.~~

~~—The provisions of this chapter shall apply to all lands, waters, buildings, structures, and the use thereof, within the jurisdictional limits of the city. No lands, waters, buildings or structures shall be used, no buildings or structures shall be erected, and no existing buildings or structures shall be moved, added to, enlarged, altered or maintained except in conformity with the provisions of this chapter.~~

~~§ 185.004 CONFLICT.~~

~~—It is not intended by this chapter to repeal, abrogate, annul or in any way impede or interfere with existing provisions of other laws or ordinances, except as specifically repealed by this chapter. Where this chapter imposes a greater restriction upon land, water, building or structures than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.~~

~~§ 185.005 PURPOSE.~~

~~—The city zoning code is based on, consistent with, related to and adopted to effectuate and implement the policies of the city comprehensive plan in order to protect, preserve and improve the public health, safety, order, appearance, convenience and welfare of the inhabitants of the city, including, but not limited to:~~

~~—(A) Lessening congestion in the streets;~~

- ~~—(B) Encouraging the most appropriate use of land, water and resources;~~
- ~~—(C) Providing adequate light and air;~~
- ~~—(D) Securing safety from fire and other dangers;~~
- ~~—(E) Preventing the overcrowding of land;~~
- ~~—(F) Presenting the character and stability of residential, commercial, industrial and other areas;~~
- ~~—(G) Facilitating the adequate provisions for transportation, water supply, sewerage, drainage, sanitation, recreation, schools, housing, and other services; and~~
- ~~—(H) Conserving and enhancing the standard of living within the city.~~

~~§ 185.006 DEFINITIONS.~~

~~—For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—ABROGATE. To abolish; repeal; or annul.~~

~~—ACCESSORY DWELLING UNIT. A residential dwelling unit, but not a mobile home or recreational vehicle, located on the same lot or parcel of land as a single-family dwelling unit, with a separate, complete housekeeping unit including a separate kitchen, sleeping area, and full bathroom facilities. The unit may be attached to the single-family dwelling unit or detached in a free-standing structure. An accessory dwelling unit is not permitted as accessory to a two-family dwelling, multi-family dwelling, or mobile home dwelling.~~

~~—(1) The unit shall be accessory to and on the same property as a single-family dwelling unit and may only be located on lots or parcels of land that meet the minimum lot size requirement of any Single-Family Residential District (SF-1, RS-1, RS-2, and RS-3), Estate Residential District (RE), Rural Residential District (RR), or General Use Holding District (GU) where single-family dwellings are permitted.~~

~~—(2) The unit shall be developed in conjunction with or after development of the principal dwelling unit and the owner of the property must reside within either the principal or the accessory dwelling unit.~~

~~—(3) Not more than one (1) accessory dwelling unit per property is permitted.~~

~~—(4) No accessory dwelling unit shall be sold separately from the principal dwelling unit. The accessory dwelling unit and the principal dwelling unit shall be located on a single lot or parcel, or or a combination of lots or parcels.~~

~~—(5) The air-conditioned floor area of the accessory dwelling unit shall not exceed 50% of the air-conditioned floor area of the principal structure, or 800 square feet, whichever is less. The accessory dwelling unit shall be no less than 200 square feet of air-conditioned floor area.~~

~~—(6) The unit shall meet the accessory structure setback and height provisions identified in §§ 185.118(A) and (B).~~

~~—(7) The unit shall be designed so that the exterior façade material is similar in appearance (material and color) of the existing principal structure.~~

~~—(8) A minimum of one (1), but not more than two (2) parking spaces shall be provided for the accessory dwelling unit, in addition to the spaces required for the principal dwelling unit.~~

~~—(9) Construction of the accessory dwelling unit, in combination with all structures on the property, shall not cause the maximum lot coverage of the zoning district to be exceeded.~~

~~—(10) The accessory dwelling unit shall be serviced by centralized water and waste water or meet the health department's well and septic tank and drain field requirements. Modification, expansion or installation of well and/or septic tank facilities to serve the accessory dwelling unit shall be designed in a manner that does not render any adjacent vacant properties "unbuildable" for development when well and/or septic tank facilities would be required to service development on those adjacent properties.~~

~~—(11) An accessory dwelling unit shall be treated as a mobile home unit for impact fees.~~

~~—ACCESSORY USE or STRUCTURE. A use or structure on the same lot with and of a nature customarily incidental and subordinate to the principal use or structure which contributes to the comfort, convenience or necessity of the occupants of the principal building.~~

~~—AGRICULTURE. The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to, forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock including beef cattle, sheep, swine, horses,~~

~~ponies, mules, or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, vegetables; nursery, floral, ornamental and greenhouse products; and fish hatcheries.~~

~~—ALCOHOLIC BEVERAGE. As defined by F.S. § 561.01.~~

~~—ALLEY. Any public or private right of way, created by platting or City Council action, with thirty (30) feet or less of right of way set aside for secondary public or private access for service to abutting properties and not intended for general traffic circulation.~~

~~—APARTMENT. See DWELLING, MULTIPLE-FAMILY.~~

~~—ARCADE AMUSEMENT CENTER. This term refers to a place of business having at least fifty (50) coin-operated amusement games or machines which operate by means of the insertion of a coin and by the application of skill on premises which are operated for the entertainment of the general public and tourists as a bona fide amusement facility. An arcade amusement center shall follow all state regulations, as established by Fla. Stat. § 546.109.~~

~~—ARTERIAL ROAD. A road or street that is designed or functions to move large volumes of traffic over relatively long distances. A road identified on the adopted future traffic circulation map as an arterial.~~

~~—ASSEMBLY. Any activity involving the assembly of any commodity, including the assembly, packaging, re-packaging of any items. This does not include changing any commodity in composition, form, size, shape, texture, or appearance which is deemed to be an industrial process.~~

~~—AUTOMOTIVE REPAIR FACILITIES. This term shall include all mechanical engine overhaul or repair, and body work and painting of automotive vehicles.~~

~~—AUTOMOTIVE VEHICLE. Any self-propelled vehicle or conveyance designed and used for the purpose of transporting or moving persons, animals, freight, merchandise or any substance. The phrase shall include passenger cars, trucks, buses, motorcycles, scooters and station wagons, but shall not include tractors, construction equipment or machinery or any device used for performing a job except as stated above.~~

~~—AWNING. A detachable, roof-like cover, supported by the wall of a building for the purpose of shielding a doorway or window from the elements.~~

- ~~—BLANK WALL AREA. An exterior wall of a commercial structure that is unadorned with any architectural features.~~
- ~~—BOARDINGHOUSE. See ROOMING HOUSE.~~
- ~~—BUILDABLE AREA. The portion of a lot remaining after required yards have been provided.~~
- ~~—BUILDING or STRUCTURE. Any structure constructed or used for residence, business, industry or other private or public purposes or accessory thereto, including tents, lunch wagons, dining cars, trailers, mobile homes, sheds, garages, carports, animal kennels, structures of all types, storerooms, billboards, signs, gasoline pumps and similar structures whether stationary or moveable.~~
- ~~—BUILDING COVERAGE. The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.~~
- ~~—BUILDING OFFICIAL. The official charged with the administration and enforcement of the building codes as adopted by the city.~~
- ~~—BUSINESS SERVICES. Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as secretarial services, bookkeeping services, telephone answering services, advertising services, building maintenance and employment services.~~
- ~~—"C" CHANNEL. A structural element made from light gauge metal used as conventional framing member.~~
- ~~—CAR WASH FACILITY. A building or structure in which the washing, cleaning, and/or polishing of motor vehicles is conducted.~~
- ~~—CHICKEN. A domestic fowl developed in a number of breeds for their eggs. A fowl is defined as a chicken by the University of Florida Extension Service. This definition shall not include ducks, geese, turkeys, pigeons or guinea.~~
- ~~—CHURCH. A building or structure or groups of buildings or structures which by design and construction are primarily intended for the conducting of organized religious services and customary accessory uses excluding general education facilities.~~
- ~~—CLUB, PRIVATE. An organization or group of people pursuing common goals, interests, or activities not operated or maintained for profit and incorporated under the laws of the state as a nonprofit organization.~~

~~—CLINIC. An establishment where patients are not lodged overnight, but are admitted for examination and treatment by a group of physicians or dentists practicing medicine together. The term does not include a place for the treatment of animals and does not include a “pain management clinic” as defined in the Palm Bay Code of Ordinances.~~

~~—COLLECTOR ROAD. A road or street that is designed or functions to collect traffic from local neighborhood roads and transmit them to arterial roads. A road identified on the adopted future traffic circulation map as a collector.~~

~~—COMPREHENSIVE PLAN. An official public document that has been adopted by the City Council that provides goals, objectives and policies to guide present and future land use decisions in the city.~~

~~—CONDITIONAL USE. A use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare. Such uses may be permitted in such zoning district as conditional uses.~~

~~—CONGREGATE LIVING FACILITY. A facility providing housing and services for certain individuals, licensed by the State Department of Health and Rehabilitative Services which may include meals, housekeeping, and personal care assistance. A residential environment is maintained for those persons who may be functionally impaired or socially isolated, but are otherwise in good health. The residents can maintain a semi-independent lifestyle and do not require more intensive care as provided in a nursing home/convalescent home.~~

~~—CONSIGNMENT AND/OR THRIFT STORE. A store to which people bring items that they no longer want (such as old clothes, shoes, and equipment) to have them sold. The person who brought it to the store doesn’t necessarily have to receive a portion of the money paid for it; the item(s) could simply be donated.~~

~~—CORRECTIONS FACILITY. A facility which is owned or operated by an agency of the State of Florida or Brevard County or which is operated, whether or not under contract with an agency of the State of Florida or Brevard County and which is utilized primarily for purposes of confining, detaining, housing, or separating from the general public any persons (whether adult or juvenile) who have been (i) convicted of a crime regardless of whether adjudication has been withheld; or (ii) awaiting trial on criminal charges in any jurisdiction; or (iii) involuntarily committed~~

~~because of pending criminal matter regarding such person. The term CORRECTIONS FACILITY shall include any state, county, or private jail, prison, juvenile detention facility, juvenile assessment or assignment center or similar facility regardless of the name by which such facility is known. The term CORRECTIONS FACILITY shall exclude City of Palm Bay Police Department facilities.~~

~~—COURT. An unoccupied open space on the same lot with the principal building and fully enclosed on at least three (3) adjacent sides by walls of the principal building.~~

~~—COURTESY NOTICE. A notice of a public hearing, not required by law, mailed at the city's discretion to property owners within five hundred (500) feet of property which is the subject of the public hearing.~~

~~—CYBERCAFE. See ELECTRONIC GAMING ESTABLISHMENT.~~

~~—DAY CARE CENTERS (CHILD CARE NURSERIES). Any child care center or child care arrangement which provides child care for more than five (5) children unrelated to the operator and which receives a payment, fee or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The following are not included: Public schools and nonpublic schools which are in compliance with the Compulsory School Attendance Law, Fla. Stat. Ch. 232; summer camps having children in full-time residence; summer day camps and bible schools normally conducted during vacation periods.~~

~~—DRINKING ESTABLISHMENT. Is a place devoted primarily to retailing and drinking alcoholic beverages. The words "drinking establishment" shall include the words "bar," "saloon," "tavern," "pub," "barroom," "bottle club," "cocktail lounge," "lounge," and "cabaret."~~

~~—DRIVE-THROUGH SERVICES/FACILITIES. Any place or premises where transactions take place between customers within an automotive vehicle and employees either within or outside of a business establishment.~~

~~—DUPLEX. A residential structure that is divided into (2) units, with a separate entrance for each unit. Each unit may allow one (1) family to reside within.~~

~~—DWELLING, EFFICIENCY. A dwelling unit within a multiple family complex or hotel/motel consisting of not more than one (1) habitable room together with a kitchen or kitchenette and sanitary facilities.~~

~~—DWELLING, MOBILE HOME. A detached residential dwelling unit over eight (8) feet in width, licensed by the State of Florida, designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A “travel trailer” is not to be considered as a mobile home.~~

~~—DWELLING, MULTIPLE FAMILY. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.~~

~~—DWELLING, SINGLE FAMILY. A detached dwelling unit other than a mobile home, designed for and occupied by one (1) family only. A Tiny Home on Wheels (THOW) that is anchored to the ground or placed on a foundation with skirting and connected to the City of Palm Bay water and sewer distribution system may be considered as a SINGLE FAMILY DWELLING.~~

~~—DWELLING, TOWNHOUSES. A one-family dwelling in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more fire-resistant walls.~~

~~—DWELLING, TWO-FAMILY. A detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.~~

~~—DWELLING UNIT or LIVING UNIT. One (1) room, or rooms, connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.~~

~~—ELDERLY OR HANDICAPPED DWELLINGS. Any dwelling, building or other structure occupied by seven (7) or more persons including staff who are not related to the owner or administrator by law, blood, marriage, or adoption. These dwellings shall be used exclusively for residential use by persons who are handicapped, aged or disabled, are undergoing rehabilitation, and are provided resident services to meet their needs. The resident services, in addition to housing and food services may include, but not be limited to, personal assistance with bathing, dressing, housekeeping, adult supervision, emotional security and other related services~~

but not including medical services. For the purpose of this chapter, these facilities shall not be deemed to include rooming or boarding homes, fraternities, sororities, clubs, monasteries or convents, hotels, emergency shelters, residential treatment facilities, recovery homes or nursing homes.

~~ELECTRONIC GAMING ESTABLISHMENT. Means a business operation, whether a principal use or accessory use, where persons utilize electronic machines or devices, including but not limited to, computers and gaming terminals, to conduct games of chance and/or a game promotion pursuant to Fla. Stat. § 849.094, including sweepstakes, and where cash, prizes, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such redeemed or distributed items are determined by the electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes cafes, cybercafés or sweepstakes cafes. This definition is applicable to any ELECTRONIC GAMING ESTABLISHMENT, whether or not the electronic machine or device utilized: (a) is server-based; (b) uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries; (c) uses software such that the simulated game influences or determines the winning or value of the prize; (d) selects prizes from a predetermined finite pool of entries; (e) uses a mechanism that reveals the content of a predetermined sweepstakes entry; (f) predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed; (g) uses software to create a game result; (h) requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device; (i) requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device; (j) requires purchase of a related product, regardless if the related product, if any, has legitimate value; (k) reveals the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded; (l) determines and associates the prize with an entry or entries at the time the sweepstakes is entered; or (m) a slot machine or other form of electrical, mechanical, or computer game. It is the intent of this definition to classify any mechanism utilized at any ELECTRONIC GAMING ESTABLISHMENT that seeks to avoid application of this definition through the use of any subterfuge or pretense whatsoever. ELECTRONIC GAMING ESTABLISHMENTS do not include ARCADE AMUSEMENT CENTERS, regulated pursuant to FLA. STAT. § 849.161, or the official Florida Lottery.~~

~~ESTATE. A large, individually-owned piece of land containing a residence.~~

~~—FAMILY. One (1) or more persons occupying a single-family dwelling unit, provided that unless all members are related by blood, marriage, or adoption, no such family shall contain over four (4) persons (step-children and foster children under state approved care shall be deemed to be part of a natural blood related family). The term FAMILY shall not be construed to mean a fraternity, sorority, club, monastery, or convent, boardinghouse, or nursing home.~~

~~—FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building or buildings measured from exterior faces of exterior walls or from the centerline of walls separating two (2) attached buildings. The required minimum floor area within each district shall not apply to accessory uses; however, the floor area of accessory uses may be computed as part of the area of the principal use.~~

~~—GIRDER. A structural element used to support the sides or roof of a structure.~~

~~—GOLF COURSE. A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shelters. A miniature golf course or putt-putt type course shall not be considered a golf course.~~

~~—GROSS FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than five (5) feet.~~

~~—GROWTH MANAGEMENT DIRECTOR. The official charged with the administration, interpretation, and enforcement of this chapter as provided for in § 185.180.~~

~~—HEDGE. A row of bushes or small trees planted close together in such a manner as to form a boundary or barrier.~~

~~—HEIGHT OF BUILDING. The vertical distance from the established average sidewalk or street grade or finished grade at the building line whichever is the highest, to:~~

~~—(1) The highest point of a flat roof;~~

~~—(2) The deck line of a mansard roof;~~

~~—(3) The average height between the peak and eave of gable, hip, and gambrel roofs.~~

~~—HOME OCCUPATION. An occupation conducted entirely in a residential dwelling unit subject to the provisions of § 185.125.~~

~~—HOSPITAL. A building or group of buildings, having room facilities for one (1) or more overnight patients, used for providing services for the inpatient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices, provided, however, it is subordinate to the main use and must be an integral part of the hospital operations.~~

~~—HOTEL. A building in which lodging, or boarding and lodging, are provided and offered to the public for compensation, and which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all times. As such, a hotel is open to the public, in contradiction to a boarding or lodging house, apartment hotel, or multiple dwelling.~~

~~—HUMAN CREMATORIUM. A human crematory is a facility containing one or more combustion units, known as cremators, used solely for the cremation of human bodies within appropriate containers. Cremators are usually made of high-grade steel plate and lined inside with heavy refractory tile or brick. Most cremators have a variety of automatic controls and use gas for heating the cremator.~~

~~—INDUSTRIAL. Any activity involving the mechanical, or chemical treatment of any commodity, including the assembly, packaging, blending, canning, bottling, or processing of any items. Changing any commodity in composition, form, size, shape, texture, or appearance is deemed to be an industrial process. The word "industrial" shall include the word manufacturing.~~

~~—INOPERABLE VEHICLE. A vehicle which cannot be driven upon the public or private streets for reasons including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.~~

~~—INSTITUTIONAL USES. A nonprofit or quasi-public use or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.~~

~~—INTERNET CAFE. See ELECTRONIC GAMING ESTABLISHMENT.~~

~~—INTERNET SWEEPSTAKES CAFE. See ELECTRONIC GAMING ESTABLISHMENT.~~

~~—JUNK YARD. A lot or land area where used or second hand materials are bought, sold, exchanged, stored, baled, packaged, packed, disassembled, or handled including but not limited to scrap iron and other metals, cloths, paper, rags,~~

~~plumbing fixtures, rubber tires and bottles. The words junk yard does not include the words automobile wrecking yard and salvage yard.~~

~~—KENNEL. A commercial establishment in which more than four (4) dogs or domesticated animals more than six (6) months old are housed, groomed, bred, boarded, trained or sold.~~

~~—LAND. Includes the words “water,” “marsh,” or “swamp.”~~

~~—LANDING BOARD. A device placed on a pigeon aviary for the intake of birds into any loft or aviary.~~

~~—LANDSCAPED AREAS. Those areas containing, but not limited to, grass, ground covers, shrubs, vines, hedges, trees, berms and complementary structural landscape architectural features, such as rocks, fountains, sculpture, decorative walls and tree wells.~~

~~—LARGE VEHICLE. Any vehicle(s) not classified as Class 1, Class 2, or Class 3 and exceeding 15,000 pounds Gross Vehicle Weight as outlined by the Federal Motor Carrier Safety Administration.~~

~~—LIVESTOCK. Domestic animals raised for use and/or for sale; such as fowl, ducks, geese, turkeys, horses, cows, mules, donkeys, pigs, chickens, goats and other animals commonly found on farms.~~

~~—LIVING AREA. The minimum floor area of a dwelling as measured by its outside dimensions exclusive of carports, porches, sheds and attached garages.~~

~~—LOADING SPACE, OFF-STREET. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space.~~

~~—LOCAL STREET. Any street or road not designated as a collector or arterial street. The primary function of a local street is to serve the adjacent property by providing the initial access to the roadway network. All local streets are minor streets.~~

~~—LODGING HOUSE. Same as ROOMING HOUSE.~~

~~—LOFT. Any house, dovecote, structure, or enclosure for the keeping and housing of any kind of pigeon.~~

~~—LOT. For purposes of this chapter, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to~~

~~provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:~~

~~— (1) A single lot of record;~~

~~— (2) A portion of a lot of record;~~

~~— (3) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;~~

~~— (4) A parcel of land described by metes and bounds.~~

~~— LOT. Includes the words “plot,” “parcel,” or “tract.”~~

~~— LOT AREA. The total area within the lot lines of a lot, excluding any street right-of-way.~~

~~— LOT, CORNER. A lot located at the intersection of two (2) 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 one hundred and twenty degrees (120°).~~

~~— LOT COVERAGE. That portion of the lot that is covered by buildings and structures including pavement.~~

~~— LOT DIMENSIONS.~~

~~— (1) Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.~~

~~— (2) Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided, however, that width between side lot lines at their foremost points (where they intersect with the street lines) shall not be less than eighty percent (80%) of the required lot width except in the case of cul-de-sacs, where the eighty percent (80%) requirement shall not apply; provided, however, that all lots shall have a minimum of fifty (50) feet facing a street.~~

~~— LOT, INTERIOR. A lot other than a corner lot with only one (1) frontage on a street.~~

~~— LOT LINE. The boundary line of a lot.~~

~~— LOT OF RECORD. A lot whose existence, location and dimensions have been legally recorded or registered in a deed or on a plat prior to the effective date of this chapter.~~

~~— LOT, THROUGH. A lot other than a corner lot with frontage on more than one (1) street. Through lots abutting two (2) streets may be referred to as double-frontage lots.~~

~~— MANUFACTURED/MODULAR BUILDING. A building that is factory constructed in its entirety, in units, or components and then placed or assembled on a building site, and which has been approved by the department of community affairs of the state or its successor agency.~~

~~— MANUFACTURING. See INDUSTRIAL.~~

~~— MARINA. An establishment that provides storage (both wet and dry), servicing, fueling and securing of watercraft and may also include eating, laundry, and retail facilities for owners, crews and guests.~~

~~— MAY. Is permissive.~~

~~— MEDICAL, RECYCLING FACILITY. Any activity involving the sterilization and destruction of medical waste, including the disposal of hazardous materials generated by hospitals, nursing homes, dental clinics, and pharmacies other types of industrial and commercial companies.~~

~~— MEDICAL WASTE. Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals as defined by The Medical Waste Tracking Act of 1988. Medical Waste excludes hazardous waste and household waste.~~

~~— MINING. The removal of mineral resources or any earth material from its natural position upon a lot, other than incidental excavation directly related to foundation preparation for an approved building, structure, accessory structure or surface drainage.~~

~~— MOBILE FOOD TRUCK. A vehicle, including trailers and other conveyances, used to vend food and/or beverage product classified as follows.~~

~~— (1) Class I — Mobile kitchens. In addition to the vending of products allowed for class II and class III mobile food trucks, these vehicles may cook, prepare and assemble food items in the unit and serve a full menu.~~

~~— (2) Class II — Canteen trucks. These vehicles vend fruits, vegetables, hot dogs, precooked foods, pre-packaged foods and pre-packaged drinks. No~~

~~preparation or assembly of foods or beverages may take place on or in the vehicle, however, the heating of pre-cooked foods is allowed. A cooking apparatus or grill top for the heating of pre-cooked foods is permitted so long as it complies with state regulations.~~

~~— (3) Class III — Ice cream trucks. These vehicles vend only pre-packaged frozen dairy or frozen water-based food products, soft serve or hand-dipped frozen dairy products or frozen water-based food products and pre-packaged beverages. If vending in the street (right-of-way) only, a mobile vending permit does not apply. Please contact the city to obtain a Business Tax Receipt (BTR).~~

~~— MOBILE FOOD VENDOR. A person who prepares, dispenses, or otherwise sells food from a mobile food truck.~~

~~— MOBILE HOME. See dwelling, mobile home.~~

~~— MOBILE HOME PARK. A single parcel of ground ten (10) acres or more in an area upon which there are mobile home sites to be leased or rented to occupants thereon.~~

~~— MOTEL. A building in which lodging, or boarding and lodging, are provided and offered to the public in contradistinction to a boarding or lodging house, or a multiple-family dwelling; the same as a hotel, except that the buildings are usually designed to serve tourists traveling by automobile, ingress to rooms need not be through a lobby or office, and parking usually is adjacent to the dwelling unit. See also the definition for TOURIST AND TRANSIENT LIVING ACCOMMODATIONS.~~

~~— NONCONFORMITY. Any lot, use of land, use of structure and premises or characteristics of any use which was lawful at the time of enactment of this chapter but which does not conform with the provisions of the district in which it is located.~~

~~— NURSING HOME / CONVALESCENT HOME. An extended or intermediate care facility licensed or approved to provide full time convalescent or chronic care to more than one (1) person, who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. Also known as a “long-term care facility” or “extended care facility.”~~

~~— OCCUPIED. The use of a structure or land for any purpose, including occupancy for residential, business, industrial, manufacturing, storage and public use.~~

~~— OFFICE, PROFESSIONAL. An office for the conduct of business of the following or related activities, medical and dental, law, engineering, real estate, insurance, accounting, chiropractic, architectural, technical and consultants in these related~~

~~fields. This term does not include a “pain-management clinic” as defined in the Palm Bay Code of Ordinances.~~

~~—OPEN SPACE. Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or enjoyment.~~

~~—PAIN-MANAGEMENT CLINIC. Any facility, clinic, office, professional office or business which advertises in any medium for any type of pain-management services provided the facility, clinic, office or business is required to register with Florida Department of Health as a pain-management clinic. Any facility, clinic, office, professional office or business that employs a physician who is primarily engaged in the treatment of pain by prescribing or dispensing controlled substance medications provided the facility, clinic, office or business is required to register with Florida Department of Health as a pain-management clinic. Any facility, clinic, office, professional office or business which is required to register with the Florida Department of Health as a pain-management clinic.~~

~~—PARKING AREA. Any area, excluding public rights-of-way, used for the purpose of maneuvering, parking, loading, storing or display of vehicles, including driveways, aisles, parking spaces, back-out areas, and other areas used for outdoor sales, display or storage of merchandise or equipment.~~

~~—PERSON. A firm, association, organization, governmental body, partnership, trust, company, or corporation as well as an individual.~~

~~—PERSONAL SERVICES. A use intended to provide services to a person or their apparel, including such uses as barber shops, beauty shops, tailors, shoe repair, laundry pickup stations and other related activities.~~

~~—PIGEON. A bird of the order Columbidae and includes racing pigeon, carrier pigeon, homing pigeon, fancy pigeon and sporting pigeon.~~

~~—PIGEON AVIARY. An accessory use structure used for the keeping and housing of racing, homing, and ‘fancy’ or seamless banded pigeons.~~

~~—PLANNED COMMERCIAL DEVELOPMENT (PCD). A commercial use or group of commercial uses of greater than three (3) acres of area developed to a carefully drawn site plan approved by the City Council as a special exception.~~

~~—PLANNED INDUSTRIAL DEVELOPMENT (PID). An industrial use or group of industrial uses of greater than five (5) acres of area developed to a carefully drawn site plan approved by the City Council as a special exception.~~

~~—PLANNED RESIDENTIAL DEVELOPMENT (PRD). A residential project consisting of two-family or multi-family uses of one hundred (100) units or more.~~

~~—PLANNED UNIT DEVELOPMENT (PUD). An area of land developed as a single entity, or in approved stage in conformity with a final development plan by a developer or group of developers acting jointly, which is totally planned to provide for a variety of land uses and common open space.~~

~~—PRINCIPAL USE OR STRUCTURE. A building in which is conducted the principal use of the lot on which it is situated. In a residential district any dwelling shall be deemed to be the principal building on the lot on which the same is situated. An attached carport, shed, garage, or any other structure with one (1) or more walls or a part of one (1) wall being a part of the principal building and structurally dependent, totally or in part, on the principal building shall comprise a part of the principal building and be subject to all regulations applied to the principal building. A detached and structurally independent carport, garage, or other structure shall conform to the requirements of an accessory building. A detached and structurally independent garage, carport or other structure conforming as an accessory building may be attached to the principal building by an open breezeway.~~

~~—PRIZE. Means any gift, award, gratuity, good, service, credit, or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.~~

~~—PUBLIC OUTDOOR SPACE. An area dedicated for the use of passive outdoor activity.~~

~~—PUBLIC USE. Any use of land or structures owned and operated by a municipality, county, state or the federal government or any agency thereof and of a public service or purpose.~~

~~—PUBLIC UTILITY FACILITY. Any equipment or structures necessary for conducting a service by a government or public utility including telephone electric, and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves or structures; sewer pipes, valves or structures; and pumping stations.~~

~~—RECREATIONAL VEHICLE. A unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.~~

~~—REGIONAL TRANSPORTATION CENTER. Public transportation facilities including bus stations, railway stations, or a multi-modal combination of both uses.~~

~~—REQUIRED SETBACK LINE. An imaginary line running parallel to a front, side or rear property line, which establishes the rear edge of a yard or open area in which no building, structure or use may be placed or established, unless otherwise permitted herein.~~

~~—RESTAURANT / EATING ESTABLISHMENT. Any building or structure or portion thereof, in which food is prepared and served for pay to any person not residing on the premises.~~

~~—RETAIL BUSINESS. An establishment where goods are displayed and offered for purchase directly by the intended consumer or user of such goods.~~

~~—RETAIL BUSINESS. An establishment where goods are displayed and offered for purchase directly by the intended consumer or user of such goods. The words Retail Business does not include Thrift Stores or Second Hand Stores.~~

~~—RETAIL FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building which is open to consumers to inspect or purchase commodities or merchandise that are on display and/or sale.~~

~~—ROOMING HOUSE. A building other than an apartment, hotel, motel or motor lodge where, for compensation and by prearrangement for definite periods, lodging, meals or lodging and meals are provided for three (3) or more persons.~~

~~—SALVAGE YARD. A lot or land area where used or wrecked automobiles are bought, sold, exchanged, stored, disassembled, or handled including but not limited to scrap iron and other metals, and rubber tires and any associated recycling of these materials. The words salvage yard include the words automobile wrecking yard but does not include junk yard.~~

~~—SATELLITE DISH ANTENNA. Any parabolic or spherical antenna which receives television or other signals from orbiting satellites or other devices. This term does not include any television or communications system regulated as a public utility.~~

~~—SCREENING. A method of visually shielding or obscuring one (1) abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.~~

~~—SEAMLESS BAND. A plastic or metal identification band that contains a series of letters or numbers that is permanently attached to the pigeon at birth. The band~~

~~is issued by a nationally recognized birding association, and is to remain with the animal throughout its natural life.~~

~~—SECONDHAND DEALER. Secondhand dealer means any person who shall engage in the business of purchasing, selling or otherwise dealing in, whether as principal or agent, secondhand articles of property. Pawnbrokers, junk dealers and precious metals dealers, for the purpose of this article, shall be not classified as secondhand dealers. The words second hand dealer includes thrift stores.~~

~~—SECONDHAND PROPERTY. Secondhand property means any tangible personal property that is not new and has been previously sold or offered for sale, including, but not limited to, clothing, watches, rings and all other jewelry; appliances; plumbing and electrical fixtures; tools; bicycles; musical instruments; adding machines; copy machines; computers, and other office equipment; knives, and any other article of tangible personal property of any value.~~

~~—SELF STORAGE FACILITY. A structure containing separate, individual, and private dead storage spaces of varying sizes up to a maximum of 300 square feet which are leased or rented on individual leases for varying periods of time.~~

~~—SEMI-PUBLIC USE. Any use of land or buildings owned and operated by an individual, firm, corporation, lodge or club, either as a profit or nonprofit activity, for a public service or purpose. This shall include privately owned utilities, transportation, recreation, and cultural activities and services.~~

~~—SHALL. Is mandatory.~~

~~—SHOPPING CENTER. A commercially owned development with twenty-five thousand (25,000) gross square feet or greater of building area and with at least one hundred (100) parking spaces.~~

~~—SIGN. Any device to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, that the following shall not be included in the application of the regulations herein:~~

~~—(1) Signs not exceeding one (1) square foot in area and bearing only property numbers, postbox numbers, names of occupants of premises, or other identification of premises not having commercial connotations;~~

~~—(2) Flags and insignia of any governmental level except when displayed in connection with commercial promotion;~~

~~—(3) Legal notices, identification, informational, or directional signs erected or required by governmental bodies;~~

~~— (4) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or flashing lights;~~

~~— (5) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.~~

~~— SMALL EVENT SPACE. An assembly, gathering, or meeting space, to include clubs, lodges, recreational groups, and similar uses, containing less than five thousand (5,000) square feet of floor area, which are solely confined to indoor spaces with their occupancy being subject to applicable Building and Fire Codes. Any outside spaces will require a Special Event Permit.~~

~~— STREET. In addition to the definition contained herein, a street for the purposes of this section shall be a public or private right-of-way set aside for public travel which is more than thirty (30) feet in width.~~

~~— (1) STREET RIGHT-OF-WAY LINE. The property line which bounds the right-of-way set aside for use as a street.~~

~~— (2) STREET CENTERLINE. The midpoint between the street right-of-way.~~

~~— STRUCTURE. See BUILDING.~~

~~— SUBMERGED LANDS. Submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally influenced waters. Privately owned submerged lands may be utilized for the calculation of density and intensity of residential and commercial development.~~

~~— SWIMMING POOL. Any portable pool or permanent structure containing a body of water eighteen (18) inches or more in depths intended for recreational purposes, but not including an ornamental reflecting pool or fish pond or other type of pool regardless of size, unless it is located and designed so as to create a hazard or to be used for swimming or wading.~~

~~— TERRACE. A hard, semi-hard, or improved surfaced area directly adjacent to a principal building at or within three (3) feet of the finished grade and not covered by a permanent roof.~~

~~— TINY HOME ON WHEELS (THOW). A dwelling to be used as permanent housing with permanent provisions for living, sleeping, eating, cooking, and sanitation. A Tiny Home on Wheels (THOW) is considered a single-family residential structure when anchored to the ground or placed on a foundation with skirting and connected to the City of Palm Bay water and sewer distribution~~

~~system. A THOW must have a minimum living area of one hundred and twenty (120) square feet. A THOW must be certified to meet ANSI A119.5 standards. A THOW exceeding four hundred (400) square feet shall meet the Federal Manufactured Home Construction and Safety Standards and shall have a United States Department of Housing and Urban Development label. A THOW shall only be permitted in a small planned unit development (SPUD).~~

~~—TOURIST AND TRANSIENT LIVING ACCOMMODATIONS. Any place wherein tourists, transients, travelers, or persons desiring temporary residence may be provided with sleeping, sanitary or cooking facilities:~~

~~—(1) MOTEL. See MOTEL.~~

~~—(2) TOURIST COURT. A group of tourist accommodation units under one (1) ownership or on one (1) tract of land providing facilities for overnight guests or for longer periods of time, and with cooking or eating facilities within the individual units.~~

~~—(3) HOTEL. See HOTEL.~~

~~—TOWNHOUSE. See DWELLING, TOWN-HOUSES.~~

~~—TRAILER. Any vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that no part of its weight or that of its load rests upon the towing vehicle.~~

~~—TRAVEL TRAILER or MOBILE CAMPER. A self-powered or nonself-powered vehicle eight (8) feet or under in width and no more than thirty-five (35) feet in length capable of being towed by an ordinary vehicle upon which it is constructed, whose primary use is temporary lodging while traveling or camping and is not used for habitation except in designated areas while within the corporate limits of the city.~~

~~—TRUCK FARMING. Farms where crops are grown specifically to be retailed. This is typically an operation with rows of crops that are harvested by trucks that drive between or alongside the crops.~~

~~—USED or OCCUPIED. Includes the words “arranged,” “designed,” “constructed,” “altered,” “converted,” “rented,” “leased,” or “intended to be used” or “occupied.”~~

~~—VACANT. A building or parcel of land which is neither occupied or used or is in an inoperative state for a period of six (6) months.~~

~~—VARIANCE. A variance is a relaxation of the terms of the zoning chapter where such variance will not be contrary to the public interest and where, owing to~~

~~conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship. As used in this chapter, a variance is authorized only for height, area, size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.~~

~~—WALL. A structure forming a physical barrier which is so constructed that less than fifty percent (50%) of the vertical surface is open to permit the transmission of light, air, and vision through such surface in a horizontal plane.~~

~~—WAREHOUSE. A building used primarily for the storage of goods and materials.~~

~~—WHOLESALE TRADE. Establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users; or acting as agents or brokers and buying merchandise for such individuals or companies.~~

~~—XERIC LANDSCAPING. Water conservation through creative landscaping applied by following seven (7) procedures:~~

~~—(1) Appropriate planning and design;~~

~~—(2) Appropriate plant selection;~~

~~—(3) Mulching;~~

~~—(4) Efficient use of turf;~~

~~—(5) Efficient irrigation;~~

~~—(6) Appropriate maintenance;~~

~~—(7) Improve poor soils.~~

~~—YARD, REQUIRED. An open space on the same lot with a principal building which is unoccupied and unobstructed by building or structures from the ground to the sky from the property line to the setback line except as otherwise provided in this definition:~~

~~—(1) FRONT YARD, REQUIRED. The area extending across the entire width of the lot between the front lot line and the front setback line. The distance shall be measured perpendicular to the front lot line.~~

~~—(2) SIDE YARD, REQUIRED. The area extending along the side lot line from the required front yard to the required rear yard and lying between the side lot line and the side setback line. The distance to be measured perpendicular to the side property line.~~

~~—(3) REAR YARD, REQUIRED. The area extending across the entire width of the lot between the rear lot line and the rear setback line. The distance to be measured perpendicular to the rear property line.~~

~~—ZERO-LOT LINE SINGLE-FAMILY DETACHED DEVELOPMENTS. Residential developments of single-family detached dwelling units where the dwelling units are placed on one (1) side lot line, but where no two (2) dwelling units share a common side lot line and which meet all requirements of this chapter.~~

~~§ 185.007 ZONING DISTRICTS ESTABLISHED.~~

~~—The city is divided into zoning districts as specified in §§ 185.030 et seq. and §§ 185.060 et seq. and as shown on the official zoning map of the city.~~

~~§ 185.008 ZONING MAP.~~

~~—(A) Identification of official map. The official zoning map shall be identified by the signature of the Mayor attested by the City Clerk under the following: "This is to certify that this is the official zoning map referred to in the Palm Bay Zoning Ordinance," together with the date of adoption of this chapter.~~

~~—(B) Changes in district boundaries. If, in accordance with the provisions of this chapter and other applicable law, changes are made in the district boundaries or other matter portrayed on the official zoning map, such changes shall be made on the official zoning map promptly after the amendment has been approved by City Council. The official zoning map shall contain a listing by date and ordinance or resolution number of all changes.~~

~~—(C) Final authority as to zoning status. Regardless of the existence of purported copies of the official zoning map which may, from time to time, be made or published, the official zoning map shall be kept under the responsible charge of the Growth Management Director or his designee and shall be the final graphic authority as to the current zoning status of all lands, waters and structures in the city. However, the legal description of all zoning or rezoning ordinances or resolutions, if applicable, shall be the final legal authority as to the zoning status of land.~~

~~—(D) Replacement of official zoning map. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting or other errors or omissions in the prior official zoning map, but no such correction shall have the effect of amending the original zoning code or any subsequent amendment thereof. Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved together with all available records pertaining to its adoption or amendment.~~

~~—(E) Retention of earlier zoning map. All zoning maps or remaining portions thereof which have had official force and effect in the city prior to the effective date of this chapter shall be retained as a public record and as a guide to the zoning status of lands and water under the jurisdiction of the city prior to the adoption of this chapter.~~

~~—(F) Updating zoning base maps. From time to time the zoning base map(s) may be updated to reflect new annexations, streets, or subdivisions formally approved by the City Council without further official action by the Council. No revision of zoning boundaries is permitted except by ordinance.~~

~~—(G) Changes to map. No zoning changes shall be made on the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter and punishable as provided under this chapter.~~

~~§ 185.009 INTERPRETATION OF DISTRICT BOUNDARIES; USES.~~

~~—Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply.~~

~~—(A) Boundaries approximately following streets, highway, alleys or rights-of-way. Boundaries indicated as approximately following the centerline of streets, highways, alleys or rights-of-way shall be construed as to follow such centerlines. In the event a right-of-way is vacated, the district boundary shall be construed as remaining in its location except when ownership of the vacated street is divided other than at the center in which case the boundary shall be construed as moving with the ownership.~~

~~—(B) Boundaries approximately following platted lot lines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.~~

~~—(C) Boundaries approximately following city limits. Boundaries indicated as approximately following city limits shall be construed as following such city limits.~~

~~—(D) Boundaries approximately following railroad lines. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.~~

~~—(E) Boundaries approximately following bulkhead lines, shore lines, streambed, or other water bodies. Boundaries indicated as following bulkhead or shore lines shall be construed to follow such bulkhead lines or shore lines, and in the event of change the bulkhead or shore line shall be construed as moving with the newly established bulkhead line or the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.~~

~~—(F) Boundaries indicated as entering any body of water. Boundaries that are indicated as entering any body of water, but not continuing to intersect with other zoning boundaries shall be construed as extending in the direction in which they enter the body of water to intersect with other zoning districts.~~

~~—(G) Boundaries approximately parallel to or extensions of above features. Boundaries indicated as parallel to or extensions of features indicated in divisions (A) through (F) above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.~~

~~—(H) Administrative official to interpret boundaries in cases of discrepancy between actual features and zoning map. Where discrepancies exist between natural or manmade features existing on the ground and with those shown on the official zoning map or in other circumstances not covered by divisions (A) through (G) above, the Growth Management Director shall interpret the district boundaries. Appeal from the interpretation of the Growth Management Director shall be pursuant to § 169.009.~~

~~—(I) Interpretation of uses permitted. Uses not designated as permitted by right, allowed by conditional use, or accessory to such uses shall be prohibited from that district. If a question arises as to the interpretation of any permitted uses, such interpretation shall be made by the Growth Management Director.~~

~~§ 185.010 APPLICATION.~~

~~— No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, and/or reconstructed, moved or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located, or as otherwise provided for in this chapter.~~

~~§ 185.011 BUILDINGS TO CONFORM.~~

~~— No building or other structure shall hereafter be erected or altered:~~

- ~~— (A) To exceed the height, bulk or floor area;~~
- ~~— (B) To provide a greater number of dwelling units;~~
- ~~— (C) To occupy a greater percentage of lot area;~~
- ~~— (D) To have narrower or smaller rear yards, front yards or side yards;~~
- ~~— (E) To provide less lot area per dwelling unit or to occupy a smaller lot; or~~
- ~~— (F) Provide a lesser separation between buildings or portion of buildings, than therein required or in any manner contrary to the provision of this chapter.~~

~~§ 185.012 MULTIPLE USE OF REQUIRED SPACE PROHIBITED.~~

~~— No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this code shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building, except as specifically provided for in this code.~~

~~§ 185.013 REDUCTION OF LOT AREA PROHIBITED.~~

~~— No yard or lot existing at the time of passage of this code shall be reduced in dimension or area below the minimum requirements set forth herein for the district in which it is located. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter.~~

~~§ 185.014 MINIMUM REQUIREMENTS.~~

~~— Within each district, the regulations set by this chapter shall be minimum regulations and shall apply uniformly to each class or kind of structure, land, or water.~~

~~§ 185.015 LOT REQUIREMENTS.~~

~~— Each building or structure hereafter erected shall be located on a lot as defined herein. Every structure or building hereafter erected shall be on a lot abutting an~~

~~improved and approved street, as defined in Chapter 179 of this code of ordinances.~~

~~§ 185.016 ANNEXED TERRITORY.~~

~~—The zoning classification of all property which may hereafter be annexed to the city shall be determined by the City Council after review and recommendation of the Planning and Zoning Board at the time of annexation.~~

~~§ 185.017 TRANSITION PROVISION.~~

~~—In the event any provision of this chapter would limit or modify the vested rights of any person or entity to complete a development that has been previously authorized, then in that event, the city may recognize the right to complete the development as provided herein. The city recognizes the right of any person to complete the following development:~~

~~—(A) Development that has received a building permit as long as that permit remains valid;~~

~~—(B) Development that has received final site plan approval shall have one (1) year to obtain and maintain a valid building permit; and~~

~~—(C) Development that has filed a completed application for a building permit shall have 180 days to obtain and maintain a valid building permit.~~

~~§ 185.018 SITE PLANS.~~

~~—A site plan shall be required for the construction or expansion of any building, structure, infrastructure, or complex of buildings or structures, unless exempted by this section. Prior to making application for a site plan, the applicant shall request a pre-application meeting with the City to determine whether the proposed project meets the criteria established for a site plan, minor site plan, site plan modification, or is exempt from the site plan process. A building permit shall not be issued unless the construction plans are accompanied by a City approved site plan. A site plan shall be submitted to the Growth Management Department for administrative review. The submittal requirements shall follow the Guidelines for Site and Building Permitting Procedures Manual.~~

~~—(A) Site Plan. A site plan shall be submitted for all the following development proposals:~~

~~—(1) New site development proposals for unimproved real property.~~

~~—(2) Any developed site proposing an addition of 50 percent (50%) or greater of the original floor area or seating capacity of the existing structure.~~

~~—(3) Any addition of impervious area, or modification of an existing onsite wetland, surface water, or stormwater management system.~~

~~—(4) Proposals where existing onsite "natural areas" of any size will be impacted.~~

~~—(B) Minor Site Plan. A minor site plan shall be submitted for the following site development proposals:~~

~~—(1) Changes to existing development which does not exceed 50 percent (50%) of the original floor area or seating capacity of the existing structure.~~

~~—(2) Additions or alterations to site infrastructure, stormwater, impervious areas of less than five hundred (500) square feet; or an addition of up to twenty percent (20%) of parking areas on developed sites, or on sites with no existing permit.~~

~~—(C) Site Plan Modification. Site plan modifications shall meet the following criteria:~~

~~—(1) All infrastructure required to service the site shall exist on the subject site.~~

~~—(2) Parking meets all code requirements, or any approved parking determination, parking rate adjustments or variance requests, in accordance with the Land Development Code.~~

~~—(3) The proposed modification does not substantially alter the traffic circulation system or substantially change the use of property, as determined by the Growth Management Director.~~

~~—(D) Applicability. All site plans are subject to compliance with the Zoning Code.~~

~~—(1) Only the specific work area identified in a site plan, minor site plan, or site plan modification shall be subject to compliance with current code requirements, unless the alteration or modification adversely impacts safety, existing infrastructure, or another code requirement that stipulates the area outside of the work area must comply with the current standards.~~

~~—(E) Exemptions. The following are exempt from the site plan review; however, shall comply with all other development regulations and building code requirements.~~

~~—(1) Detached single-family or duplex/two-family residence on a fee simple lot.~~

~~—(2) Accessory structures to an established principal use meeting the following criteria:~~

~~—(a) The structure does not necessitate the expansion of the existing infrastructure such as parking spaces, stormwater system, etc.; or~~

~~—(b) Does not impact the adequacy of the existing infrastructure (e.g., utilize necessary parking spaces, remove/reduce stormwater, etc.); and~~

~~—(c) The scope of work does not require modifying the existing site engineering and can be regulated through the building permit review process.~~

~~—(F) Revisions to Approved Plans (RTAP). Revisions to approved plans under construction which do not increase the gross square footage of a building or adversely impact compliance with the approved site plan and would not alter the required infrastructure and improvements necessary to serve the site, may be approved in writing provided such additions and/or modifications fully conform to all existing city regulations. Prior to final acceptance of the site, as-built drawings shall be submitted indicating such revisions, and/or modifications prior to site acceptance.~~

~~DISTRICT REGULATIONS~~

~~§ 185.030 GU — GENERAL USE HOLDING DISTRICT.~~

~~—(A) Intent. The provisions of this district are intended to apply to large undeveloped or sparsely developed areas which are capable of supporting single-family dwellings at very low densities without extensive infrastructure improvements. This district is also intended to place land in a hold pattern until such time as a specific request is presented which is consistent with the future land use plan and which provides for infrastructure improvements necessary to support a more intensive land development classification.~~

~~—(B) Principal uses and structures:~~

~~—(1) Single-family dwellings.~~

~~—(2) General agricultural activities limited to farming, grove agriculture, plant nursery (wholesale only), tree farming, and flower and shrub gardening.~~

~~—(3) Keeping or raising for sale of horses, ponies, cows and other livestock provided that the total of all such animals shall not exceed one (1) for each one-half (½) acre of lot area.~~

~~—(4) Keeping or raising for sale of small domestic animals, birds or fish.~~

- ~~—(5) Public parks, playgrounds and other public recreational facilities.~~
- ~~—(6) Public or private golf courses.~~
- ~~—(7) Public utility equipment and facilities.~~
- ~~—(8) Public uses.~~
- ~~—(C) Accessory uses and structures: Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.~~
- ~~—(D) Conditional uses:~~
 - ~~—(1) Agricultural activities such as truck farming, bee keeping, fish hatcheries, poultry farms and other agricultural activities not expressly provided under principal uses.~~
 - ~~—(2) Retail sales of agricultural products grown or raised on the same lot, provided the following conditions are met:~~
 - ~~—(a) No structure for sale of such products shall contain a floor area greater than two hundred (200) square feet.~~
 - ~~—(b) The area and structure used for sale of such products shall meet the setbacks established for principal structures.~~
 - ~~—(c) All parking spaces, loading spaces and drives shall meet the setbacks established for principal structures.~~
- ~~—(3) Cemeteries.~~
- ~~—(4) Broadcasting towers, antennas and transmitters.~~
- ~~—(5) Churches.~~
- ~~—(6) Clubs, lodges, and similar activities.~~
- ~~—(7) Public and private schools.~~
- ~~—(8) Mining.~~
- ~~—(9) Stables or horse riding academy.~~
- ~~—(10) Commercial dog kennels.~~
- ~~—(11) Communication towers and facilities.~~
- ~~—(E) Prohibited uses and structures:~~
 - ~~—(1) All uses not expressly or provisionally permitted herein.~~

~~—(2) All uses not in keeping with the low density residential or agricultural character of the district.~~

~~—(3) Corrections facilities.~~

~~—(F) Lot and structure requirements:~~

~~—(1) Minimum lot area — five (5) acres.~~

~~—(2) Minimum lot width — three hundred (300) feet.~~

~~—(3) Minimum lot depth — three hundred (300) feet.~~

~~—(4) Maximum building coverage — ten percent (10%).~~

~~—(5) Minimum living area — one thousand two hundred (1,200) square feet.~~

~~—(6) Maximum height — thirty-five (35) feet.~~

~~—(7) Minimum yard requirement:~~

~~—(a) Front — seventy-five (75) feet.~~

~~—(b) Side interior — thirty (30) feet.~~

~~—(c) Side corner — fifty (50) feet.~~

~~—(d) Rear — fifty (50) feet.~~

~~§ 185.031 RR — RURAL RESIDENTIAL DISTRICT.~~

~~—(A) Intent. The provisions of this district are intended to apply to areas uniquely suited for the development and maintenance of rural single-family residential living combined with limited agricultural activities. Large lot sizes are required to maintain the low density rural character, prevent unsanitary conditions, and provide sufficient open space to ensure that the various principal uses are kept at a level of compatible land use intensity.~~

~~—(B) Principal uses and structures:~~

~~—(1) Single-family dwellings.~~

~~—(2) Accessory dwelling units; subject to the provisions listed in the § 185.006.~~

~~—(3) General agricultural activities limited to farming, grove agriculture, plant nursery (wholesale only), tree farming, and flower and shrub gardening.~~

~~—(4) Keeping or raising for sale of horses, ponies, and cows; provided, that the total of all such animals shall not exceed one (1) for each one half (½) acre of lot area.~~

- ~~—(5) Public parks, playgrounds and other public recreational facilities.~~
- ~~—(6) Public utility equipment and facilities on a site of one (1) acre or less or within a dedicated utility easement or right-of-way.~~
- ~~—(7) Keeping or raising for sale of small domestic animals, birds, or fish.~~
- ~~—(8) Keeping or raising for sale of small farm animals, such as goats, chickens, pigs and other small animals typically found on a farm, provided the total of all such animals shall not exceed five (5) for each one half (½) acre of lot area.~~
- ~~—(9) The acreage used in determining the number of animals that may be kept upon the premises may only be used for one (1) type of animal. For example, an acre of land would allow for two (2) horses, but it would not allow for an additional five (5) goats. The land needed to support one type of animal cannot in turn be counted to permit further animals. This provision is to protect the health of the animal(s) and to ensure the residential character of the neighborhood is maintained.~~
- ~~—(C) Accessory uses and structures:~~
 - ~~—(1) Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.~~
- ~~—(D) Conditional uses:~~
 - ~~—(1) Public or private golf courses.~~
 - ~~—(2) Retail sales of agricultural products grown or raised on the same lot, provided the following conditions are met:~~
 - ~~—(a) No structure for sale of such products shall contain a floor area greater than four hundred (400) square feet.~~
 - ~~—(b) The area and structure used for sale of such products shall meet the setbacks established for principal structures.~~
 - ~~—(c) All parking spaces, loading spaces and drives shall meet the setbacks established for principal uses.~~
 - ~~—(3) Cemeteries (excluding crematoriums).~~
 - ~~—(4) Churches.~~
 - ~~—(5) Antennas and transmitters.~~
 - ~~—(6) Clubs, lodges and similar activities.~~

- ~~— (7) Public and private schools.~~
- ~~— (8) Stables or horse riding academy.~~
- ~~— (9) Commercial dog kennels providing the following conditions are met:~~
 - ~~— (a) Principal structure setbacks must be met for all kennel structures and activities.~~
 - ~~— (b) All parking spaces, loading spaces and drives shall meet the setbacks established for principal uses.~~
- ~~— (10) Public utility equipment not within a dedicated utility easement or right-of-way and on a site of greater than one (1) acre.~~
- ~~— (11) Public uses.~~
- ~~— (12) Wedding venues, subject to the provisions established in § 185.088(J).~~
- ~~— (E) Prohibited uses and structures:~~
 - ~~— (1) All uses not specifically or provisionally permitted herein.~~
 - ~~— (2) Mining.~~
 - ~~— (3) Intense agricultural activities such as truck farming, beekeeping, fish hatcheries, poultry farms, pig farms and other agricultural activities not expressly provided for under principal uses.~~
 - ~~— (4) Correctional facilities.~~
- ~~— (F) Lot and structure requirements:~~
 - ~~— (1) Minimum lot area — One (1) acre.~~
 - ~~— (2) Minimum lot width — one hundred and fifty (150) feet.~~
 - ~~— (3) Minimum lot depth — two hundred (200) feet.~~
 - ~~— (4) Maximum building coverage — thirty-five percent (35%).~~
 - ~~— (5) Minimum living area — one thousand two hundred (1,200) square feet.~~
 - ~~— (6) Maximum height — thirty-five (35) feet.~~
 - ~~— (7) Minimum yard requirements:~~
 - ~~— (a) Front — fifty (50) feet.~~
 - ~~— (b) Side interior — twenty (20) feet.~~
 - ~~— (c) Side corner — thirty (30) feet.~~

~~—— (d) Rear — thirty (30) feet.~~

~~§ 185.032 RE — ESTATE RESIDENTIAL DISTRICT.~~

~~—— (A) Intent. The provisions of this district are intended to apply to an area of low density single-family residential development of an estate character. Lot sizes and other restrictions are intended to protect and promote the highest quality residential development.~~

~~—— (B) Principal uses and structures:~~

~~—— (1) Single-family dwellings.~~

~~—— (2) Accessory dwelling units; subject to the provisions listed in the § 185.006.~~

~~—— (3) Public parks, playgrounds and other public recreational facilities.~~

~~—— (4) Public utility equipment and facilities located within a utility easement or right-of-way.~~

~~—— (C) Accessory uses and structures:~~

~~—— (1) Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.~~

~~—— (D) Conditional uses:~~

~~—— (1) Public or private schools.~~

~~—— (2) Churches.~~

~~—— (3) Public utility equipment facilities not located within a utility easement or right-of-way.~~

~~—— (4) Public utility equipment facilities, except communication towers, not located within a utility easement or right-of-way.~~

~~—— (E) Prohibited uses and structures:~~

~~—— (1) All uses not specifically or provisionally provided herein.~~

~~—— (2) Correctional facilities.~~

~~—— (F) Lot and structure requirements:~~

~~—— (1) Minimum lot area — twelve thousand (12,000) square feet.~~

~~—— (2) Minimum lot width — eighty (80) feet.~~

~~—— (3) Minimum lot depth — one hundred and twenty (120) feet.~~

- ~~— (4) Maximum building coverage — thirty percent (30%).~~
 - ~~— (5) Minimum living area — one thousand six hundred (1,600) square feet.~~
 - ~~— (6) Maximum height — twenty-five (25) feet.~~
 - ~~— (7) Minimum yard requirements:~~
 - ~~— (a) Front — twenty-five (25) feet.~~
 - ~~— (b) Side interior — twelve (12) feet.~~
 - ~~— (c) Side corner — twenty-five (25) feet.~~
 - ~~— (d) Rear — twenty-five (25) feet.~~
 - ~~— (8) Minimum two (2) car enclosed garage required at the time of the issuance of the structure's certificate of occupancy.~~
- ~~§ 185.033 RS-1 — SINGLE-FAMILY RESIDENTIAL DISTRICT.~~
- ~~— (A) Intent. The provisions of this district are intended to apply to an area of low density single-family residential development. Lot sizes and other restrictions are intended to promote and protect high quality single-family residential development.~~
 - ~~— (B) Principal uses and structures:~~
 - ~~— (1) Single-family dwellings.~~
 - ~~— (2) Accessory dwelling units; subject to the provisions listed in the § 185.006.~~
 - ~~— (3) Public parks, playgrounds and other public recreational facilities.~~
 - ~~— (4) Public utility equipment and facilities located within a utility easement or right-of-way.~~
 - ~~— (C) Accessory uses and structures:~~
 - ~~— (1) Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.~~
 - ~~— (D) Conditional uses:~~
 - ~~— (1) Public and private schools.~~
 - ~~— (2) Churches.~~
 - ~~— (3) Public utility equipment and facilities, except communication towers, not located within a utility easement or right-of-way.~~
 - ~~— (E) Prohibited uses and structures:~~

- ~~— (1) All uses not specifically or provisionally provided herein.~~
- ~~— (2) Correctional facilities.~~
- ~~— (F) Lot and structure requirements:~~
 - ~~— (1) Minimum lot area — eight thousand (8,000) square feet.~~
 - ~~— (2) Minimum lot width — eighty (80) feet.~~
 - ~~— (3) Minimum lot depth — one hundred (100) feet.~~
 - ~~— (4) Maximum building coverage — thirty percent (30%).~~
 - ~~— (5) Minimum living area — one thousand six hundred (1,600) square feet.~~
 - ~~— (6) Maximum height — twenty-five (25) feet.~~
 - ~~— (7) Minimum yard requirements:~~
 - ~~— (a) Front — twenty-five (25) feet.~~
 - ~~— (b) Side interior — eight (8) feet.~~
 - ~~— (c) Side corner — twenty-five (25) feet.~~
 - ~~— (d) Rear — twenty-five (25) feet.~~
- ~~— (8) Minimum two (2) car enclosed garage required at the time of the issuance of the structure's certificate of occupancy.~~

~~§ 185.034 RS-2 — SINGLE-FAMILY RESIDENTIAL DISTRICT.~~

- ~~— (A) Intent. The provisions of this district are intended to apply to an area of medium density single-family residential development. Lot sizes and other restrictions are intended to promote high quality residential development.~~
- ~~— (B) Principal uses and structures:~~
 - ~~— (1) Single-family dwellings.~~
 - ~~— (2) Accessory dwelling units; subject to the provisions listed in the § 185.006.~~
 - ~~— (3) Public parks, playgrounds and other public recreational facilities.~~
 - ~~— (4) Public utility equipment and facilities located within a utility easement or right-of-way.~~
- ~~— (C) Accessory uses and structures:~~
 - ~~— (1) Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.~~

~~—(D) Conditional uses:~~

~~—(1) Public and private schools.~~

~~—(2) Churches.~~

~~—(3) Public utility equipment and facilities, except communication towers, not located within a utility easement or right-of-way.~~

~~—(E) Prohibited uses and structures:~~

~~—(1) All uses not specifically or provisionally permitted herein.~~

~~—(2) Correctional facilities.~~

~~—(F) Lot and structure requirements:~~

~~—(1) Minimum lot area — seven thousand five hundred (7,500) square feet.~~

~~—(2) Minimum lot width — seventy-five (75) feet.~~

~~—(3) Minimum lot depth — one hundred (100) feet.~~

~~—(4) Maximum building coverage — thirty percent (30%).~~

~~—(5) Minimum living area — one thousand two hundred (1,200) square feet.~~

~~—(6) Maximum height — twenty-five (25) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — twenty-five (25) feet.~~

~~—(b) Side interior — eight (8) feet.~~

~~—(c) Side corner — twenty-five (25) feet.~~

~~—(d) Rear — twenty-five (25) feet.~~

~~—(8) Minimum one (1) car enclosed garage required at the time of the issuance of the structure's certificate of occupancy.~~

~~§ 185.035 RS-3 — SINGLE-FAMILY RESIDENTIAL DISTRICT.~~

~~—(A) Intent. The provisions of this district are intended to apply to an area of medium density single-family residential development. Lot sizes and other restrictions are intended to promote quality residential development.~~

~~—(B) Principal uses and structures:~~

~~—(1) Single-family dwellings.~~

~~—(2) Accessory dwelling units; subject to the provisions listed in the § 185.006.~~

- ~~—(3) Public parks, playgrounds and other public recreational facilities.~~
 - ~~—(4) Public utility equipment and facilities located within a utility easement or right-of-way.~~
 - ~~—(C) Accessory uses and structures:~~
 - ~~—(1) Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.~~
 - ~~—(D) Conditional uses:~~
 - ~~—(1) Public and private schools.~~
 - ~~—(2) Churches.~~
 - ~~—(3) Public utility equipment and facilities, except communication towers, not located within an easement or right-of-way.~~
 - ~~—(E) Prohibited uses and structures:~~
 - ~~—(1) All uses not specifically or provisionally permitted herein.~~
 - ~~—(2) Correctional facilities.~~
 - ~~—(F) Lot and structure requirements:~~
 - ~~—(1) Minimum lot area — seven thousand five hundred (7,500) square feet.~~
 - ~~—(2) Minimum lot width — seventy-five (75) feet.~~
 - ~~—(3) Minimum lot depth — one hundred (100) feet.~~
 - ~~—(4) Maximum building coverage — thirty percent (30%).~~
 - ~~—(5) Minimum living area — eight hundred (800) square feet.~~
 - ~~—(6) Maximum height — twenty-five (25) feet.~~
 - ~~—(7) Minimum yard requirements:~~
 - ~~—(a) Front — twenty-five (25) feet.~~
 - ~~—(b) Side interior — eight (8) feet.~~
 - ~~—(c) Side corner — twenty-five (25) feet.~~
 - ~~—(d) Rear — twenty-five (25) feet.~~
- ~~§ 185.036 RM 10 — SINGLE , TWO , MULTIPLE FAMILY RESIDENTIAL DISTRICT.~~

~~—(A) Intent. The provisions of this district are intended to apply to an area of medium density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote medium density residential development, maintaining an adequate amount of open space for such development.~~

~~—(B) Principal uses and structures:~~

~~—(1) Single-family dwellings.~~

~~—(2) Two-family dwellings/duplexes.~~

~~—(3) Multiple-family dwellings provided that in no case shall there be more than ten (10) dwelling units per gross residential acre. For multiple-family residential development that includes five (5) or more units, the provisions of (a) through (d) below, shall apply. Multiple-family developments of less than five (5) units shall be exempt from these provisions.~~

~~—(a) A tree survey shall be submitted, where applicable, showing the types, locations, and sizes of existing trees.~~

~~—(b) The perimeter of the project shall be provided with a six (6) foot high wall or fence of wood, masonry, brick, PVC, or wrought iron material. For perimeter fences adjacent to road right-of-ways, landscaping shall be provided between the road right-of-way and the perimeter fence. A minimum of one (1) tree for each fifty (50) linear feet of fence shall be provided. In addition to the tree requirement, a minimum of two (2) foot tall, continuous and unbroken row of shrubs shall be planted between the wall/fence and the right of way to provide relief from the wall/fence. Ivy or clinging vines may be used in lieu of the shrub requirement on masonry or brick fences. Earthen berms may be approved in lieu of the wall or fence provided the berm is six (6) feet in height with landscaping provided as identified in this subsection.~~

~~—(c) Sidewalks required.~~

~~—1. All buildings, parking areas and amenities shall be connected by sidewalks or interior walkways, and sidewalks along interior circulation drives shall connect with off-site sidewalks.~~

~~—2. When parking is provided in front, behind or on the side, of a building along an interior circulation drive, a concrete sidewalk with raised curb shall be constructed between the parking spaces and the building, with connecting sidewalks to the building entrance. If such sidewalk is provided on only one side~~

~~of an interior circulation drive, it shall be at least five (5) feet in width. If sidewalks are provided on both sides of the interior circulation drive, they shall be a minimum of four (4) feet wide.~~

~~—(d) Balconies. Balconies designed for other than purely ornamental purposes shall be a minimum of five (5) feet in depth.~~

~~—(4) Public parks, playgrounds or other public recreational facilities.~~

~~—(5) Public utility equipment and facilities located within a utility easement or right-of-way.~~

~~—(6) Congregate living facilities.~~

~~—(7) Public uses.~~

~~—(C) Accessory uses and structures: Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.~~

~~—(D) Conditional uses:~~

~~—(1) Public or private schools.~~

~~—(2) Churches.~~

~~—(3) Public utility equipment and facilities, except communication towers, not located within a utility easement or right-of-way.~~

~~—(E) Prohibited uses and structures: All uses not specifically or provisionally permitted herein.~~

~~—(1) Corrections facilities.~~

~~—(2) All uses not specifically or provisionally provided for herein.~~

~~—(F) Lot and structure requirements, single-family:~~

~~—(1) Minimum lot area — six thousand (6,000) square feet.~~

~~—(2) Minimum lot width — sixty (60) feet.~~

~~—(3) Minimum lot depth — one hundred (100) feet.~~

~~—(4) Maximum building coverage — thirty-five percent (35%).~~

~~—(5) Minimum living area — None.~~

~~—(6) Maximum height — twenty-five (25) feet.~~

~~—(7) Minimum yard requirements:~~

- ~~—— (a) Front — twenty-five (25) feet minimum building setback.~~
- ~~—— (b) Side interior — eight (8) feet minimum building setback.~~
- ~~—— (c) Side corner — twenty-five (25) feet minimum building setback.~~
- ~~—— (d) Rear — twenty-five (25) feet minimum building setback.~~
- ~~—— (e) Parking may be located in a required front, rear or side yard for multifamily dwellings, provided such parking maintain at least a ten (10) foot setback from all front, side, and rear lot lines.~~
- ~~—— (G) Lot and structure requirements, two-family:~~
 - ~~—— (1) Minimum lot area — ten thousand (10,000) square feet.~~
 - ~~—— (2) Minimum lot width — one hundred (100) feet.~~
 - ~~—— (3) Minimum lot depth — one hundred (100) feet.~~
 - ~~—— (4) Maximum building coverage — thirty-five percent (35%).~~
 - ~~—— (5) Minimum living area — None.~~
 - ~~—— (6) Maximum height — twenty-five (25) feet.~~
 - ~~—— (7) Minimum yard requirements:~~
 - ~~—— (a) Front — twenty-five (25) feet minimum building setback.~~
 - ~~—— (b) Side interior — eight (8) feet minimum building setback.~~
 - ~~—— (c) Side corner — twenty-five (25) feet minimum building setback.~~
 - ~~—— (d) Rear — twenty-five (25) feet minimum building setback.~~
 - ~~—— (e) Parking may be located in a required front, rear or side yard for multifamily dwellings, provided such parking maintain at least a ten (10) foot setback from all front, side, and rear lot lines.~~
- ~~—— (H) Lot and structure requirements, multiple-family:~~
 - ~~—— (1) Minimum lot area — ten thousand (10,000) square feet.~~
 - ~~—— (2) Minimum lot width — one hundred (100) feet.~~
 - ~~—— (3) Minimum lot depth — one hundred (100) feet.~~
 - ~~—— (4) Maximum building coverage — thirty-five percent (35%).~~
 - ~~—— (5) Minimum living area: None.~~
 - ~~—— (6) Maximum height — twenty-five (25) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — twenty-five (25) feet minimum building setback.~~

~~—(b) Side interior — eight (8) feet minimum building setback.~~

~~—(c) Side corner — twenty-five (25) feet minimum building setback.~~

~~—(d) Rear — twenty-five (25) feet minimum building setback.~~

~~—(e) Parking may be located in a required front, rear or side yard for multifamily dwellings, provided such parking maintain at least a ten (10) foot setback from all front, side, and rear lot lines.~~

~~§ 185.037 RM-15 — SINGLE-, TWO-, MULTIPLE-FAMILY RESIDENTIAL DISTRICT.~~

~~—(A) Intent. The provisions of this district are intended to apply to an area of medium density residential development with a variety of housing types. Lot sizes and other restrictions are intended to promote medium density development while maintaining an adequate amount of open space for such development.~~

~~—(B) Principal uses and structures:~~

~~—(1) Single-family dwellings.~~

~~—(2) Two-family dwellings.~~

~~—(3) Multiple-family dwellings provided that in no case shall there be more than fifteen (15) dwelling units per gross residential acre. For multiple-family residential development that includes five (5) or more units, the provisions of (a) through (d) below, shall apply. Multiple family developments of less than five (5) units shall be exempt from these provisions.~~

~~—(a) A tree survey shall be submitted, where applicable, showing the types, locations, and sizes of existing trees.~~

~~—(b) The perimeter of the project shall be provided with a six (6) foot high wall or fence of wood, masonry, brick, PVC, or wrought iron material. For perimeter fences adjacent to road right of ways, landscaping shall be provided between the road right-of-way and the perimeter fence. A minimum of one (1) tree for each fifty (50) linear feet of fence shall be provided. In addition to the tree requirement, a minimum of two (2) foot tall, continuous and unbroken row of shrubs shall be planted between the wall/fence and the right-of- way to provide relief from the wall/fence. Ivy or clinging vines may be used in lieu of the shrub requirement on masonry or brick fences. Earthen berms may be approved in lieu of the wall or~~

~~fence provided the berm is six (6) feet in height with landscaping provided as identified in this subsection.~~

~~—— (c) Sidewalks required.~~

~~—— 1. All buildings, parking areas and amenities shall be connected by sidewalks or interior walkways, and sidewalks along interior circulation drives shall connect with off-site sidewalks.~~

~~—— 2. When parking is provided in front, behind or on the side, of a building along an interior circulation drive, a concrete sidewalk with raised curb shall be constructed between the parking spaces and the building, with connecting sidewalks to the building entrance. If such sidewalk is provided on only one side of an interior circulation drive, it shall be at least five (5) feet in width. If sidewalks are provided on both sides of the interior circulation drive, they shall be a minimum of four (4) feet wide.~~

~~—— (d) Balconies. Balconies designed for other than purely ornamental purposes shall be a minimum of five (5) feet in depth.~~

~~—— (4) Public parks, playgrounds or other public recreational facilities.~~

~~—— (5) Public utility equipment and facilities located within a utility easement or right-of-way.~~

~~—— (6) Congregate living facilities.~~

~~—— (7) Public uses.~~

~~—— (C) Accessory uses and structures: Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.~~

~~—— (D) Conditional uses:~~

~~—— (1) Public or private schools.~~

~~—— (2) Churches.~~

~~—— (3) Public utility equipment and facilities, except communication towers, not located within a utility easement or right-of-way.~~

~~—— (4) Permitted uses or uses permissible by special exception exceeding twenty-five (25) feet in height, but not to exceed forty (40) feet in height.~~

~~—— (E) Prohibited uses and structures:~~

~~—— (1) All uses not specifically or provisionally permitted herein.~~

~~—(2) Corrections facilities.~~

~~—(F) Lot and structure requirements, single-family:~~

~~—(1) Minimum lot area — six thousand (6,000) square feet.~~

~~—(2) Minimum lot width — sixty (60) feet.~~

~~—(3) Minimum lot depth — one hundred (100) feet.~~

~~—(4) Maximum building coverage — forty percent (40%).~~

~~—(5) Minimum living area — None.~~

~~—(6) Maximum height — twenty-five (25) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — twenty-five (25) feet minimum building setback.~~

~~—(b) Side interior — eight (8) feet minimum building setback.~~

~~—(c) Side corner — twenty-five (25) feet minimum building setback.~~

~~—(d) Rear — twenty-five (25) feet minimum building setback.~~

~~—(e) Parking may be located in a required front, rear or side yard for multifamily dwellings, provided such parking maintain at least a ten (10) foot setback from all front, side, and rear lot lines.~~

~~—(G) Lot and structure requirements, two-family:~~

~~—(1) Minimum lot area — eight thousand (8,000) square feet.~~

~~—(2) Minimum lot width — eighty (80) feet.~~

~~—(3) Minimum lot depth — one hundred (100) feet.~~

~~—(4) Maximum building coverage — forty percent (40%).~~

~~—(5) Minimum living area — None.~~

~~—(6) Maximum height — twenty-five (25) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front - twenty-five (25) feet minimum building setback.~~

~~—(b) Side interior — eight (8) feet minimum building setback.~~

~~—(c) Side corner — twenty-five (25) feet minimum building setback.~~

~~—(d) Rear — twenty-five (25) feet minimum building setback.~~

~~—(e) Parking may be located in a required front, rear or side yard for multifamily dwellings, provided such parking maintain at least a ten (10) foot setback from all front, side, and rear lot lines.~~

~~—(H) Lot and structure requirements, multiple family:~~

~~—(1) Minimum lot area — ten thousand (10,000) square feet.~~

~~—(2) Minimum lot width — one hundred (100) feet.~~

~~—(3) Minimum lot depth — one hundred (100) feet.~~

~~—(4) Maximum building coverage — forty percent (40%).~~

~~—(5) Minimum living area: None.~~

~~—(6) Maximum height — twenty-five (25) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — twenty five (25) feet, or equal to the height of the building, whichever is greater.~~

~~—(b) Side interior — ten (10) feet, or equal to the height of the building, whichever is greater.~~

~~—(c) Side corner — twenty five (25) feet, or equal to the height of the building, whichever is greater.~~

~~—(d) Rear — twenty-five (25) feet, or equal to the height of the building, whichever is greater.~~

~~—(e) Parking may be located in a required front, rear or side yard for multifamily dwellings, provided such parking maintain at least a ten (10) foot setback from all front, side, and rear lot lines.~~

~~§ 185.038 RM-20 — MULTIPLE-FAMILY RESIDENTIAL DISTRICT.~~

~~—(A) Intent. The provisions of this district are intended to apply to an area of high density residential development. Lot, height, and other restrictions are intended to accommodate an intense degree of development, maintaining adequate amounts of open space for residential uses. Some nonresidential uses compatible with the character of the district are allowed.~~

~~—(B) Principal uses and structures:~~

~~—(1) Multiple-family dwellings, provided that in no case shall there be more than twenty (20) dwelling units per gross residential acre. For multiple-family residential~~

~~development that includes five (5) or more units, the provisions of (a) through (f) below, shall apply. Multiple-family developments of less than five (5) units shall be exempt from these provisions.~~

~~—— (a) A tree survey shall be submitted, where applicable, showing the types, locations, and sizes of existing trees.~~

~~—— (b) The perimeter of the project shall be provided with a six (6) foot high wall or fence of wood, masonry, brick, PVC, or wrought iron material. For perimeter fences adjacent to road right-of-ways, landscaping shall be provided between the road right-of-way and the perimeter fence. A minimum of one (1) tree for each fifty (50) linear feet of fence shall be provided. In addition to the tree requirement, a minimum of two (2) foot tall, continuous and unbroken row of shrubs shall be planted between the wall/fence and the right-of-way to provide relief from the wall/fence. Ivy or clinging vines may be used in lieu of the shrub requirement on masonry or brick fences. Earthen berms may be approved in lieu of the wall or fence provided the berm is six (6) feet in height with landscaping provided as identified in this subsection.~~

~~—— (c) Sidewalks required.~~

~~—— 1. All buildings, parking areas and amenities shall be connected by sidewalks or interior walkways, and sidewalks along interior circulation drives shall connect with off-site sidewalks.~~

~~—— 2. When parking is provided in front, behind or on the side, of a building along an interior circulation drive, a concrete sidewalk with raised curb shall be constructed between the parking spaces and the building, with connecting sidewalks to the building entrance. If such sidewalk is provided on only one side of an interior circulation drive, it shall~~

~~be at least five (5) feet in width. If sidewalks are provided on both sides of the interior circulation drive, they shall be a minimum of four (4) feet wide.~~

~~—— (d) Variations in building height.~~

~~—— 1. For building of two (2) or three (3) stories in height and not exceeding one hundred (100) feet in length, at least fifteen (15) percent of the roof line shall have a variation in height, or an average variation in height, of at least five (5) feet.~~

~~—— 2. For buildings of two (2) or three (3) stories in height and in excess of one hundred (100) feet in length, at least two (2) portions of the building shall have a variation in height, or an average variation in height, of at least five (5) feet. The~~

~~combination of said required variations in height shall amount to not less than fifteen (15) percent of the length of the building.~~

~~3. For buildings of four (4) or more stories in height at least fifteen (15) percent of the roof line shall have a variation in height, or an average variation in height, of at least ten (10) feet.~~

~~(e) Variations in building facade.~~

~~1. For buildings not exceeding one hundred (100) feet in length, at least fifteen (15) percent of the building face shall have a variation in setback of at least five (5) feet.~~

~~2. For buildings in excess of one hundred (100) feet in length, at least two (2) portions of the building shall have variation in setback of at least five (5) feet. Variations of less than five (5) feet shall not count toward this requirement. The combination of said required variations in setback shall amount to not less than fifteen (15) percent of the length of the building.~~

~~(f) Balconies. Balconies designed for other than purely ornamental purposes shall be a minimum of five (5) feet in depth.~~

~~(2) Public parks, playgrounds and other public recreational facilities.~~

~~(3) Public utility equipment and facilities located within a utility easement or right-of-way.~~

~~(4) Congregate living facilities and group homes licensed and certified by the Department of Health of the state and rehabilitation services, including nursing homes.~~

~~(5) Public uses.~~

~~(C) Accessory uses and structures:~~

~~(1) Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.~~

~~(D) Conditional uses:~~

~~(1) Public and private schools.~~

~~(2) Public utility equipment and facilities, except communication towers, not located within a utility easement or right-of-way.~~

~~(3) Churches.~~

~~(4) Private clubs or lodges.~~

~~—(5) Private Marinas.~~

~~—(E) Prohibited uses and structures:~~

~~—(1) All uses not specifically or provisionally permitted herein.~~

~~—(2) Corrections facilities.~~

~~—(F) Lot and structure requirements:~~

~~—(1) Minimum lot area — ten thousand (10,000) square feet.~~

~~—(2) Minimum lot width — one hundred (100) feet.~~

~~—(3) Minimum lot depth — one hundred (100) feet.~~

~~—(4) Maximum building coverage — forty percent (40%).~~

~~—(5) Minimum living area: None.~~

~~—(6) Maximum height — seventy (70) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — twenty-five (25) feet minimum building setback, or equal to the height of the building, whichever is greater.~~

~~—(b) Side interior — fifteen (15) feet minimum building setback, or equal to the height of the building, whichever is greater.~~

~~—(c) Side corner — twenty-five (25) feet minimum building setback, or equal to the height of the building, whichever is greater.~~

~~—(d) Rear — twenty-five (25) feet minimum building setback, or equal to the height of the building, whichever is greater.~~

~~—(e) The minimum separation distance between multiple family residential buildings on the same property shall be thirty (30) feet.~~

~~—(f) Parking may be located in a required front, rear or side yard for multifamily dwellings, provided such parking maintain at least a ten (10) foot setback from all front, side, and rear lot lines.~~

~~§ 185.039 RMH — RESIDENTIAL MOBILE HOME DISTRICT.~~

~~—(A) Intent. The purpose of the mobile home residential zoning district shall be to locate and establish areas within the city which are deemed to be uniquely suited for the development and maintenance of mobile home park/subdivision residential areas of an urban character, which are properly served by adequate community facilities; to designate those uses and services deemed appropriate and proper for~~

~~location and development within the zoning district and to establish such development standards and provisions as are appropriate to ensure proper development in a mobile home park/subdivision residential environment.~~

~~—(B) Principal uses and structures:~~

~~—(1) Mobile home parks.~~

~~—(2) Mobile home subdivisions.~~

~~—(3) Public parks and recreation facilities.~~

~~—(C) Accessory uses and structures:~~

~~—(1) Private recreation facilities.~~

~~—(2) Laundry rooms.~~

~~—(3) Park management offices.~~

~~—(4) Customary accessory uses of a residential nature clearly incidental and subordinate to the principal use, including garages, carports, storage sheds and the like, in keeping with the residential character of the district.~~

~~—(5) Travel trailers, campers, and boats placed off-site in common storage areas.~~

~~—(6) Public utility equipment and facilities, except communication towers.~~

~~—(D) Conditional uses:~~

~~—(1) Churches.~~

~~—(E) Site and building regulations:~~

~~—(1) Minimum project size — The minimum size of the site to be developed for a mobile home park or subdivision shall be ten (10) acres.~~

~~—(2) Required recreation area — A minimum of ten percent (10%) of gross land area, exclusive of required setback and street right of way shall be set aside and developed for recreational purposes for residents of the mobile home park or subdivision.~~

~~—(3) Minimum size of individual mobile home space/lot — four thousand (4,000) square feet.~~

~~—(4) Minimum lot width — fifty (50) feet.~~

~~—(5) Minimum lot depth — eighty (80) feet.~~

- ~~—(6) Maximum building coverage — thirty-five percent (35%).~~
- ~~—(7) Minimum living area — six hundred (600) square feet.~~
- ~~—(8) Maximum height — twenty-five (25) feet.~~
- ~~—(9) Minimum yard requirements of individual mobile home space:~~
 - ~~—(a) Front — ten (10) feet.~~
 - ~~—(b) Side — six (6) feet.~~
 - ~~—(c) Side corner — ten (10) feet.~~
 - ~~—(d) Rear — ten (10) feet.~~
- ~~—(10) Site perimeter yard requirements:~~
 - ~~—(a) A twenty-five (25) foot minimum yard setback shall be provided from all exterior mobile home park/subdivision property lines.~~
 - ~~—(b) A mobile home park/subdivision shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence or evergreen hedge not less than six (6) feet in height.~~
- ~~—(11) Off-street parking. There shall be at least two (2) paved, off-street parking spaces for each mobile home space, which shall be on the same site as the mobile home served.~~
- ~~—(F) Development plan review:~~
 - ~~—(1) As part of the supplementary data required to complete an application for a public hearing for a mobile home park/subdivision development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such application (if the site plan is larger than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the mobile home park/subdivision shall be built substantially in accordance with such a plan. If the Growth Management Director deems that there is a substantial change from that which is shown on the original application, the developer shall be required to return to the Planning and Zoning Board and the City Council in order to receive approval for such changes as an amendment to the original site plan. The plot or site plan shall include, but not be limited to, location of all lots, service areas, public streets, street signs, walkways, and utilities showing the same underground where such is required. If a public utility equipment and facility is to be located on a site, its dimensions, location, access and other pertinent information should be indicated on the site plan. Adequate access for fire~~

~~fighting and emergency purposes and access to service areas shall be provided. Information concerning abutting land areas, such as land use, zoning, existing structures, and existing streets shall also be included. Site plan approval is limited to one (1) year, but may be extended for an additional year by the City Council, for demonstrated progress.~~

~~—(2) A completion bond may be required by the City Council. If the construction is not substantially underway within one (1) year after the approval of the site plan, the site plan may be voided by the City Council.~~

~~—(3) If the property is to be subdivided, the parcel shall be platted in accordance with the subdivision plat regulations, and all street paving, drainage, water and sewerage facilities shall comply with the subdivision specifications and requirements of the city (see Chapter 184).~~

~~§ 185.040 RVP — RECREATIONAL VEHICLE PARK DISTRICT.~~

~~—(A) Intent. The purpose of the recreational vehicle park zoning district shall be to locate and establish areas within the city which are deemed to be uniquely suited for the development and maintenance of recreational vehicle activities, i.e., travel trailers, motor homes, camping tents, and trailers occupied as temporary living quarters; to designate those uses and services deemed appropriate and proper for location and development within the zoning district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district.~~

~~—(B) Principal uses and structures:~~

~~—(1) Travel trailers, recreational vehicles, motor homes, camping tents and other vehicles with sleeping accommodations.~~

~~—(2) Management offices and residence (a mobile home may be allowed for a manager's residence only).~~

~~—(C) Accessory uses:~~

~~—(1) Grocery store.~~

~~—(2) Bottled gas sales.~~

~~—(3) Laundry facilities.~~

~~—(4) Recreational facilities such as playgrounds, picnic areas, swimming pools, game courts, and recreation hall.~~

~~—(5) Public utility equipment and facilities.~~

~~—(D) Conditional uses:~~

~~—(1) Marina and boat rental including bait, fishing, and sports accessories sales serving guests of the park and/or the general public.~~

~~—(E) Design standards for recreational vehicle parks.~~

~~—(1) Minimum size: ten (10) acres.~~

~~—(2) Maximum density: fifteen (15) travel trailer/R.V. sites per gross acre of land. This shall also apply to any tent camping areas.~~

~~—(3) Streets and parking:~~

~~—(a) Direct access to the recreational vehicle park shall be from an arterial roadway. The administrative office of the park shall be so located as to assure that no recreational vehicles are parked in the right of way during the check-in process or while waiting for others to be checked in.~~

~~—(b) Width of streets. Streets or driveways in a recreational vehicle park shall be private and shall have the following widths:~~

~~—1. A one-way street/drive shall be at least twelve (12) feet in width.~~

~~—2. A two-way street/drive shall be at least twenty-four (24) feet in width.~~

~~—(c) Street surfacing. All roads or driveways shall be paved meeting city standards.~~

~~—(d) Road curves. All road curves shall have a minimum turning radius of fifty (50) feet. All culs-de-sac shall have a maximum length of five hundred (500) feet and terminate in a turning circle having a minimum radius of fifty (50) feet.~~

~~—(e) Parking. Each travel trailer site shall have off-street parking pads for both recreational vehicles and for towing vehicles. The pads shall be composed of a stabilized material meeting city standards.~~

~~—(4) Buffer strips. A twenty-five (25) foot minimum yard setback shall be provided from all exterior property lines and right of ways. The recreational vehicle park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a solid wall, wood or PVC fence, or evergreen hedge not less than six (6) feet in height. The buffer strip shall be separate from recreational areas, streets, driveways, travel trailer sites (R.V. sites) and utility sites, but may be utilized for stormwater drainage and retention purposes.~~

~~—(5) Recreational areas. A minimum of ten percent (10%) of the total land area of a travel trailer park shall be devoted to one (1) or more common use areas for recreational activity. In addition, for every travel trailer and tent site, there shall be allocated an additional one hundred (100) square feet of land for recreational activity. However, this requirement is not necessary when the proposed development is a density of ten (10) sites per gross acre or less. Such recreational areas shall be exclusive of travel trailer sites, buffer strips, street right-of-way and storage areas; however, the periphery of such areas may contain utility sites, and other nonrecreational service buildings, the area of which will be subtracted from the computed "recreational area." Recreational areas shall be easily accessible to all park users and management. Although the required space for recreational usage may be met through more than one (1) recreational site, the minimum size of any such area shall be twenty thousand (20,000) square feet. Provision for all common open space and the construction of recreational facilities which are shown on the site plan shall proceed at an equivalent, or greater, rate as the construction of individual travel trailer sites.~~

~~—(6) Tent camping. Areas may be set aside for tent camping in accordance with all provisions of this section, except:~~

~~—(a) There shall be a stabilized pad on the site for parking of the transportation vehicle.~~

~~—(b) Tent camping may be permitted on a travel trailer site.~~

~~—(F) Design requirements for recreational vehicle site.~~

~~—(1) Minimum size.~~

~~—(a) Back-in parking sites shall have a minimum area of one thousand five hundred (1,500) square feet with a minimum width of thirty (30) feet and a minimum length of fifty (50) feet.~~

~~—(b) Drive-through parking sites shall have a minimum area of one thousand two hundred (1,200) square feet with minimum width of twenty (20) feet and a minimum length of sixty (60) feet.~~

~~—(2) Access. Each R.V./travel trailer site shall abut on at least one (1) street or driveway within the boundaries of the travel trailer park and access to the site shall be only from such an internal street or driveway.~~

~~—(3) Setback requirements. No part of a travel trailer placed on a travel trailer site shall be closer than five (5) feet to any site line and ten (10) feet to any street or driveway.~~

~~—(4) Appurtenances. Temporary appurtenances, such as cabanas and awnings, may be erected on a travel trailer site as long as such appurtenances do not violate the setback requirements as set forth in this section and as long as such appurtenances are capable of being dismantled and stored within four (4) hours.~~

~~—(G) Provisions of service in recreational vehicle parks.~~

~~—(1) Service buildings. All service buildings shall comply with the building code and regulations concerning buildings, electrical installations, plumbing and sanitation systems.~~

~~—(2) Water supply. An adequate supply of water shall be provided in accordance with the regulatory agencies. A minimum of one (1) potable water supply outlet shall be provided for every two (2) travel trailer sites. Each recreational area and bathhouse-restroom facility shall have at least one (1) approved drinking fountain in close proximity.~~

~~—(3) Sewage disposal.~~

~~—(a) All sewage disposal facilities shall be provided in accordance with the regulatory agencies.~~

~~—(b) At least one (1) sanitary dumping station shall be provided in every travel trailer park. Such station shall be readily accessible and well-lighted. The following schedule shall be used in determining additional dumping stations based on the number of sites which are not connected individually to sewer lines: for every fifty (50) sites or fractional part thereof, beyond the first (50) sites, one (1) sanitary dumping station shall be provided.~~

~~—(c) At least one (1) central bathhouse-restroom facility shall be located within three hundred (300) feet of all camping units which are either not supplied with sewer connections or not capable of utilizing such connections (e.g., tents, camper trailers). Any dispersed bathhouse-restroom facility provided to meet the distance requirement of three hundred (300) feet shall have at least two (2) of each of the following fixtures for men and women: Toilets, urinals, lavatories and showers. Recreational areas shall be located within three hundred (300) feet of a bathhouse-restroom facility.~~

~~—(d) The minimum number of bath and toilet facilities shall be determined by the latest adopted Florida Building Code.~~

~~—(4) Lighting. All entrances, exits, streets, and service buildings shall be well lighted during the hours of darkness. Street lighting may be overhead or low level but must be shielded and reflected into the street and should be of low intensity. All recreational facilities which are to be utilized during the hours of darkness shall be adequately lighted to ensure the safety of all users of such facilities.~~

~~—(5) Electricity. All requirements of the National Electrical Code as contained in this code of ordinances must be met.~~

~~—(6) Service and utility lines. All service utility lines in a travel trailer park shall be installed underground and at a minimum depth of eighteen (18) inches.~~

~~—(7) Refuse handling. Each travel trailer site shall be provided with at least one (1) fly-tight, watertight, rodent-proof container of a capacity not less than four (4) gallons and not more than thirty (30) gallons. However, this is not required when sites are within two hundred (200) feet of a large covered trash receptacle (e.g., dumpster). All refuse shall be collected at least twice weekly and where public or private collection service is not available, the owner or operator of the travel trailer park shall dispose of the refuse by transporting it to a disposal site approved by the regulatory agency. All refuse shall be collected and transported in covered vehicles or covered containers.~~

~~—(8) Insect and rodent control. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform to the requirements and regulations of the regulatory agency. Adequate drainage systems will be provided and maintained in such a manner as to prevent the breeding of mosquitoes and other obnoxious insects in the park.~~

~~—(9) Fire protection. The travel trailer park shall be subject to the rules and regulations of the Fire Department.~~

~~—(10) Fuel supply and storage. All installations and tanks furnishing and/or storing any type of gaseous fuels to be used by the occupants of the travel trailer park shall comply with the Fire Prevention Code of the National Fire Prevention Association, as adopted.~~

~~—(11) Storage. Outdoor storage of travel trailers is permitted that such storage takes place within an area especially set aside for such use.~~

~~—(12) Signs. Those signs necessary for directional or safety purposes are permitted. All other signs as per the sign regulations set forth in Chapter 178 of this code of ordinances.~~

~~—(H) Operation of recreational vehicle park.~~

~~—(1) Responsibilities of park management. The owner of a travel trailer park or the park management shall at all times maintain the park and its facilities in a clean, orderly, and sanitary condition. The park management shall inform all park occupants of the provisions of this section, other related code provisions and ordinances of the city, and statutes, and of their responsibilities thereunder.~~

~~—(2) Length of occupancy. No guest of a travel trailer park shall remain in the same park for no more than thirty (30) days.~~

~~—(3) Register of occupants. A register of all travel trailer occupants in the park shall be maintained with the following information:~~

~~—(a) The name and address of each travel trailer owner or operator making use of the travel trailer park.~~

~~—(b) The dates of arrival and departure of each travel trailer.~~

~~—(4) Evacuation. It shall be the responsibility of the park management to notify all park occupants of the need to evacuate the travel trailer park in case of fire, wind, water or other manmade disasters or acts of God.~~

~~—(5) Animal control. It shall be the responsibility of the park manager to ensure that no owner or person in charge of an animal shall permit the animal to run at large or to commit any nuisance within the limits of any travel trailer park.~~

~~—(I) Regulation of recreational vehicle parks.~~

~~—(1) Use and occupancy permits. It shall be unlawful for any person to operate a travel trailer park within Palm Bay without first obtaining a business tax receipt, in the name of such person, to operate the specific park.~~

~~—(2) Inspection. The Health Official, Building Official, Code Enforcement Official and Fire Department are authorized to make periodic inspections of the travel trailer park and travel trailer sites for the purpose of determining satisfactory compliance with the regulations of this section pertaining to the health, safety, and welfare of the residents of the city.~~

~~—(3) Revocation of permit. Whenever any of the above officials, upon inspection of a travel trailer park, find that conditions or practices exist which are~~

~~in violation of any applicable provision of this section, they shall furnish the permittee with a list of violations that the inspection shall reveal, and give the permittee written notice of a specific reasonable time in which to remedy the violations. Failure of the permittee to remedy the violations within the specific time shall result in the revocation of the business tax receipt. Such permit shall be reissued only if the violations have been remedied to comply with the requirements of this section. The users of the travel trailer park shall have two (2) days from the date of the revocation in which to vacate the travel trailer park. The permittee shall be granted a hearing on such revocation before the City Council provided a request is made by the applicant within thirty (30) days after the revocation.~~

~~—(J) Development site plan review. As part of the supplementary data required to complete an application for a public hearing for a recreational vehicle/travel trailer park development, a scaled and dimensioned plot or site plan of the development shall be submitted as part of such application (if the site plan is greater than eleven (11) inches by seventeen (17) inches, two (2) copies are needed, as well as a digital copy); and if the application is approved, the recreational vehicle/travel trailer park shall be built in accordance with such a plan. The site plan shall include, but not be limited to, location of all R.V./travel trailer sites, service areas, drives, streets, signs, buildings, parking, recreational space, setbacks, public utility locations and any other pertinent information. Site plan approval is limited to one (1) year by the City Council.~~

~~§ 185.041 OP — OFFICE PROFESSIONAL DISTRICT.~~

~~—(A) Intent. The purpose of the office professional district shall be to locate and establish areas in the city which are deemed to be uniquely suited for the development of professional office uses and services protected from the intense development of commercial and industrial facilities. Development standards and provisions are established to ensure proper development of uses within the district; to reduce conflicts with adjacent residential uses; and to minimize traffic conflicts along adjacent thoroughfares.~~

~~—(B) Principal uses and structures. The following uses and structures are permitted for any use or group of uses that are developed, either separately, or as a unit with certain site improvements shared in common:~~

~~—(1) Professional offices and services such as medical and dental, legal, engineering, real estate, insurance, accounting, chiropractic, architectural, technical, and similar professions.~~

~~—(2) Financial institutions without drive-through service.~~

~~—(C) Accessory uses and structures. Customary accessory uses of one (1) or more of the principal uses, clearly incidental and subordinate to the principal uses, in keeping with the professional character of the district. No storage of material is permitted except where such material is clearly incidental to and an accessory component of the rendering of professional services. All storage shall be within an enclosed structure.~~

~~—(D) Conditional uses:~~

~~—(1) Churches.~~

~~—(2) Libraries.~~

~~—(3) Public utility equipment and facilities not located within a public utility easement.~~

~~—(4) Public uses.~~

~~—(5) Veterinarian clinics provided all activities are within the principal structure and there is no boarding of animals.~~

~~—(6) Camouflaged communication towers and facilities.~~

~~—(E) Prohibited uses and structures:~~

~~—(1) Retail, wholesale, drive through services/facilities, warehousing, storage, building contractor storage, personal service, assembling, and/or manufacturing.~~

~~—(2) All uses not specifically or provisionally permitted herein; any use not in keeping with the intent of this district.~~

~~—(3) Corrections facilities.~~

~~—(4) Pain-management clinic.~~

~~—(F) Lot and structure requirements:~~

~~—(1) Minimum lot area — ten thousand (10,000) square feet.~~

~~—(2) Minimum lot width — one hundred (100) feet.~~

~~—(3) Minimum lot depth — one hundred (100) feet.~~

~~—(4) Maximum building coverage — twenty-five percent (25%).~~

~~—(5) Minimum floor area — three hundred (300) square feet.~~

~~—(6) Maximum height — twenty-five (25) feet.~~

~~— (7) Minimum yard requirements:~~

~~— (a) Front — thirty (30) feet minimum building setback. Parking areas may be located in the front yard except within ten (10) feet of front lot line.~~

~~— (b) Side interior — ten (10) feet minimum building and parking setback. Side yards abutting residentially zoned property shall maintain a twenty-five (25) foot minimum setback for all buildings and parking.~~

~~— (c) Side corner — twenty-five (25) feet minimum building setback. Parking areas may be located on the side corner yard except within ten (10) feet of the side corner lot line.~~

~~— (d) Rear — thirty (30) feet minimum building and parking setback. Fifteen (15) feet when abutting a dedicated alley.~~

~~— (8) Shared access and parking areas:~~

~~— (a) No side interior building and parking area setbacks are required provided all of the following are met:~~

~~— 1. Buildings on adjacent parcels, under separate ownership, are joined by a common wall;~~

~~— 2. Parking areas and aisles are joined with adjacent parcel(s) under separate ownership;~~

~~— 3. Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common by all parcels involved and a minimum spacing of one hundred and fifty (150) feet is maintained; or access is provided by an approved frontage road;~~

~~— 4. Easements and/or written assurances of cross access and a sharing of common facilities (stormwater system, solid waste, container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.~~

~~— (b) No interior side parking area setbacks, are required provided the requirements of divisions 2. through 4. are met.~~

~~— (c) For adjacent developments meeting the requirements of divisions 2. through 4. above, the total number of off-street parking spaces required for uses on all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenient access to all principal buildings.~~

~~—(9) A six (6) foot high completely opaque masonry wall shall be provided along the entire length of any side or rear property line abutting property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this zoning code.~~

~~—(10) Design requirements.~~

~~—(a) An Architectural Style for each structure is required. This shall include adherence to all standards contained in § 185.134.~~

~~§ 185.042 NC — NEIGHBORHOOD COMMERCIAL DISTRICT.~~

~~—(A) Intent. The purpose of the neighborhood commercial district shall be to provide areas within Palm Bay which are deemed to be uniquely suited for the development and maintenance of limited commercial activities offering convenience goods and personal services to residents of the surrounding neighborhood area. Development standards and provisions are established to ensure the proper development and location of uses and services deemed appropriate within the district; to reduce conflicts with adjacent residential uses, and to minimize the interruption of traffic along adjacent thoroughfares.~~

~~—(B) Principal uses and structures. The following uses and structures are permitted.~~

~~—(1) Retail stores, sales, and display rooms (not including automotive, lumber and building supply, and similar uses) containing less than five thousand (5,000) square feet of floor area.~~

~~—(2) Personal service establishments such as beauty and barber, laundry and dry cleaning pick-up stations, and the like.~~

~~—(3) Professional offices, studios, clinics, general offices, government office, business schools and similar uses containing less than five thousand (5,000) square feet of floor area.~~

~~—(4) Schools, libraries, and churches.~~

~~—(5) Day care centers containing less than five thousand (5,000) square feet of floor area.~~

~~—(6) Restaurant, not including drive-through facilities and containing less than five thousand (5,000) square feet of floor area.~~

~~—(7) Public utility equipment, facilities and uses located on one-half (½) acre or less of contiguous land.~~

~~—(8) Banks and financial institutions without drive-through facilities.~~

~~—(9) Public uses.~~

~~—(10) Veterinarian clinics provide all activities are within the principal structure and there is no boarding of animals.~~

~~—(11) Small Event Spaces containing less than five thousand (5,000) square feet of floor area, which are solely confined to indoor spaces with their occupancy being subject to applicable Building and Fire Codes.~~

~~—(C) Accessory uses and structures. Customary accessory uses of one (1) or more of the principal uses clearly incidental and subordinate to the principal use, in keeping with the low intensity commercial character of the district. All storage shall be in an enclosed structure.~~

~~—(D) Conditional uses:~~

~~—(1) Retail automotive gas/fuel sales:~~

~~—(a) Access. Retail automotive gas/fuel sales establishments shall be located on arterial roadways, at a signalized intersection of a major road collector, or on corner lots at intersections of collector streets or higher functional classification as identified in the adopted Palm Bay Comprehensive Plan. No more than two (2) corner lots at any one (1) intersection shall be used for retail gasoline or automotive fuel sales. No driveway or access shall be permitted within one hundred (100) feet from an intersection of collector streets or higher functional classification.~~

~~—(b) Minimum street frontage: one hundred and fifty (150) feet on each abutting street.~~

~~—(c) Location of facilities. Gasoline/ fuel pumps, storage tanks and other service island equipment shall be at least twenty (20) feet from all property lines, fifteen (15) feet from any building and one hundred (100) feet from the nearest residentially zoned land. No gasoline/fuel pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.~~

~~—(d) No fuel pump and tank installation shall have more than four (4) pump islands nor more than eight (8) pumps.~~

~~—(e) Tank storage: Underground storage required for all receptacles for combustible materials in excess of two hundred (200) gallons.~~

~~—(f) The proposed use will not constitute a nuisance or hazard because of vehicular traffic movement, delivery of fuel movement, noise or fume generation.~~

~~—(g) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility or disharmony with adjoining properties.~~

~~—(h) Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with §§ 176.01 et seq. of this code of ordinances.~~

~~—(2) Banks and financial institutions with drive-through facilities with the following condition: The proposed site fronts on an arterial road or at the intersection of collector streets or higher functional classification.~~

~~—(3) Restaurants with drive-through facilities and restaurants that allow patrons to dance to music, subject to the provisions set forth in § 185.088(1).~~

~~—(4) Indoor commercial recreation and amusement such as batting cages, miniature vehicle racetracks and similar uses, fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities containing less than five thousand (5,000) square feet of floor area. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval.~~

~~—(5) Public utility equipment, facilities and uses located on sites greater than one-half (½) acre in size.~~

~~—(6) Eating establishments licensed by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation licensed as a restaurant that serve alcohol.~~

~~—(7) Retail stores, sales, and display rooms (not including automotive, lumber and building supplies) and similar uses occupying more than five thousand (5,000) square feet of gross floor.~~

~~—(8) Professional offices, studios, clinics, general offices, government offices, business schools and similar uses occupying more than five thousand (5,000) square feet of gross floor area.~~

~~—(9) Day care centers occupying more than five thousand (5,000) square feet of gross floor area.~~

~~—(E) Prohibited uses and structures:~~

~~—(1) All uses not specifically or provisionally permitted herein.~~

- ~~—(2) Corrections facilities.~~
- ~~—(3) Arcade amusement centers.~~
- ~~—(4) Pain-management clinic.~~
- ~~—(5) Electronic gaming establishments.~~
- ~~—(F) Lot and structure requirements:~~
 - ~~—(1) Minimum lot area — ten thousand (10,000) square feet.~~
 - ~~—(2) Minimum lot width — one hundred (100) feet.~~
 - ~~—(3) Minimum lot depth — one hundred (100) feet.~~
 - ~~—(4) Maximum building coverage — thirty percent (30%).~~
 - ~~—(5) Minimum floor area — three hundred (300) square feet.~~
 - ~~—(6) Maximum height — twenty-five (25) feet.~~
 - ~~—(7) Minimum yard requirements:~~
 - ~~—(a) Front — thirty (30) feet minimum building setback. Parking areas may be located in the front yard except within ten (10) feet of the front lot line.~~
 - ~~—(b) Side interior — ten (10) feet minimum building setback. Parking areas may be located in the side yard, except within five (5) feet of the side lot line. Side yards abutting residentially zoned property shall maintain a twenty-five (25) foot minimum setback for all buildings and parking.~~
 - ~~—(c) Side corner — twenty-five (25) feet minimum building setback. Parking areas may be located in the side corner yard, except within ten (10) feet of any public or private street.~~
 - ~~—(d) Rear — twenty-five (25) feet minimum building and parking area setback; ten (10) feet when abutting a dedicated alley.~~
 - ~~—(8) Shared access and parking areas.~~
 - ~~—(a) No side interior building and parking area setbacks are required provided all of the following are met:~~
 - ~~—1. Buildings on adjacent parcels, under separate ownership, are joined by a common wall;~~
 - ~~—2. Parking areas and aisles are joined with adjacent parcel(s) under separate ownership;~~

~~3. Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common by all parcels involved and a minimum spacing of one hundred and fifty (150) feet is maintained; or access is provided by an approved frontage road;~~

~~4. Easements and/or written assurances of cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.~~

~~(b) No interior side parking area setbacks are required provided the requirements of divisions 2. through 4. above are met.~~

~~(c) For adjacent developments meeting the requirements of divisions 2. through 4. above, the total number of off-street parking spaces required for uses on all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenient access to all principal buildings.~~

~~(9) A six (6) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abutting property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this chapter.~~

~~(10) Design requirements.~~

~~(a) An Architectural Style for each structure is required. This shall include adherence to all standards contained in § 185.134.~~

~~§ 185.043 CC — COMMUNITY COMMERCIAL DISTRICT.~~

~~(A) Intent. The purpose of the community commercial district shall be to locate and establish areas within the city which are deemed to be uniquely suited for the development and maintenance of community commercial facilities, the areas to be primarily located in or near the intersection of arterial roadways; to designate those uses and services deemed appropriate and proper for location and development within the subject district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district.~~

~~(B) Principal uses and structures. The following uses and structures are permitted:~~

~~(1) Retail stores, sales and display rooms (not including lumber and building supply, and similar uses).~~

- ~~— (2) Personal service establishments such as beauty and barber, laundry and dry cleaning pick-up stations, and the like.~~
- ~~— (3) Professional offices, studios, clinics, general offices, government office, business schools and similar uses.~~
- ~~— (4) Schools, libraries, churches and similar uses.~~
- ~~— (5) Day care centers.~~
- ~~— (6) Restaurant, eating and drinking establishments (including a drive-through).~~
- ~~— (7) Public utility equipment and facilities.~~
- ~~— (8) Banks and financial institutions with or without drive-through facilities.~~
- ~~— (9) Business service establishments.~~
- ~~— (10) Clubs, lodges, and fraternal organizations.~~
- ~~— (11) Dry cleaning establishments using noninflammable solvents and cleaning fluids as determined by the Fire Chief.~~
- ~~— (12) Funeral homes.~~
- ~~— (13) Repair service establishments such as household appliances, radio and television, and similar uses, and automobile service establishments excluding body shops, upholstering, and painting. Subject to the following:~~
 - ~~— (a) There shall be no storage of junked or wrecked motor vehicles other than temporary storage for those vehicles awaiting repair. All vehicles shall have attached at all times a current vehicle registration license plate and shall be parked on a paved surface. Any wrecked vehicles shall be in an enclosed area and shall not be visible from outside the property.~~
- ~~— (14) Hotels, motels and guest cottages.~~
 - ~~— (a) The minimum living area per hotel/motel efficiency unit shall be two hundred and eighty (280) square feet.~~
 - ~~— (b) There shall be no more than seventy-five (75) rental units per acre.~~
- ~~— (15) Hospitals and nursing homes.~~
- ~~— (16) Xerographic and offset printing.~~
- ~~— (17) Plant nurseries and green houses.~~

- ~~—— (18) Public and private parking facilities. Must have at least a minimum-sized building on site.~~
- ~~—— (19) Veterinarian clinics provided all activities are within the principal structure and there is no boarding of animals.~~
- ~~—— (20) New and used automobiles, major recreational equipment and mobile home sales and rentals with accessory uses, subject to the following restrictions:~~
 - ~~—— (a) All outside areas where merchandise is displayed shall be paved, meeting city specifications;~~
 - ~~—— (b) All servicing and repair facilities, except for gasoline pumps, shall be located in an enclosed structure;~~
 - ~~—— (c) There shall be no storage of junked or wrecked automobiles other than temporary storage for those awaiting repair. Such temporary storage shall be in an enclosed area and the vehicles shall not be visible from outside the property. All such vehicles awaiting repair shall have attached at all times current vehicle registration license plates;~~
 - ~~—— (d) The lot must have frontage on an arterial roadway as identified in the adopted City Comprehensive Plan;~~
 - ~~—— (e) All requirements of the Palm Bay Sign Ordinance must be met;~~
 - ~~—— (f) All areas utilized for the parking of motor vehicles, major recreational equipment, and mobile homes for sales, lease or rental or awaiting repair must meet the parking setbacks, must be in addition to required parking spaces, aisles and drives required by §§ 185.140 et seq., and shall be considered parking areas under the terms § 185.142;~~
 - ~~—— (g) Required parking shall be provided based on a one (1) space for each two hundred (200) square feet of gross floor area of the structure used primarily to conduct sales and one (1) space per employee on the largest working shift;~~
 - ~~—— (h) The property must have minimum frontage on an arterial roadway of one hundred (100) feet;~~
 - ~~—— (i) Gasoline facilities may be permitted as accessory uses, provided the requirements of division (D)(2)(c), (d), and (g) below are complied with. Retail sales are prohibited unless conditional use approval is granted.~~
- ~~—— (21) State approved tattoo parlors.~~
- ~~—— (22) Public uses.~~

~~—(23) Medical and dental manufacturing labs.~~

~~—(24) Indoor commercial recreation such as theaters, driving ranges, bowling alleys, and similar uses, excluding dance clubs, fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities containing less than five thousand (5,000) square feet of floor area. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval.~~

~~—(25) Arcade amusements centers; subject to the following regulations:~~

~~—(a) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line, of any school.~~

~~—(b) No two facilities, operating pursuant to this subdivision, shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility.~~

~~—(c) The number of devices within the facility shall be governed by the Land Development Code of the City of Palm Bay, as well as applicable Florida Statutes and laws.~~

~~—(C) Accessory uses and structures. Customary accessory uses of one (1) or more of the principal uses, clearly incidental and subordinate to the principal use, in keeping with the intense commercial character of the district. All storage shall be in an enclosed structure, unless otherwise provided for herein.~~

~~—(D) Conditional uses.~~

~~—(1) Permitted uses located on a parcel of ten (10) or more acres of area.~~

~~—(2) Auto body repair, upholstery and painting.~~

~~—(a) There shall be no storage of junked or wrecked vehicles other than temporary storage for those awaiting repair. All vehicles shall always have attached a current vehicle registration license plate.~~

~~—(b) Any wrecked vehicles awaiting repair shall be in an enclosed area and the vehicle shall not be visible from outside the property and shall be parked on a paved surface.~~

~~—(3) Retail automotive gas/fuel sales:~~

~~—(a) Access. Retail automotive gas/fuel sales establishments shall be located on arterial roadways, at a signalized intersection of a major road collector,~~

~~or on corner lots at the intersection of collector streets or higher functional classification as identified in the adopted Palm Bay Comprehensive Plan. No more than two (2) corner lots at any one (1) intersection shall be used for retail gasoline or automotive fuel sales. No driveway or access shall be permitted within one hundred (100) feet from an intersection of collector streets or higher functional classification.~~

~~—— (b) Minimum street frontage: one hundred and fifty (150) feet on each abutting street.~~

~~—— (c) Location of facilities: Gasoline, fuel pumps, storage tanks and other service island equipment shall be at least twenty (20) feet from all property lines, fifteen (15) feet from any building, and one hundred (100) feet from the nearest residentially owned land. No gasoline fuel pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.~~

~~—— (d) Tank storage. Underground storage required for all receptacles for combustible materials in excess of two hundred (200) gallons.~~

~~—— (e) The proposed use will not constitute a nuisance or hazard because of vehicular traffic movement, delivery of fuel movement, noise or fume generation.~~

~~—— (f) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility or disharmony with adjoining properties.~~

~~—— (g) Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with §§ 176.01 et seq. of this code of ordinances.~~

~~—— (4) Indoor dance clubs, outdoor recreation, and outdoor amusement such as amusement parks, driving ranges, batting cages, go-cart tracks, outdoor skating facilities, miniature golf courses and similar uses.~~

~~—— (5) Commercial radio and television broadcasting.~~

~~—— (6) Marinas including wet and dry storage.~~

~~—— (7) Car washes.~~

~~—— (8) Permitted uses or uses permissible by conditional use exceeding seventy (70) feet in height.~~

~~—— (9) Self storage facilities subject to the provisions established in § 185.088(F).~~

~~—— (10) Communication towers and facilities.~~

~~— (11) Human crematoriums:~~

~~— (a) May only be allowed in conjunction with a funeral home.~~

~~— (b) Crematoriums shall adhere to the principal use setbacks of the CC district, except where the subject property abuts residentially zoned land. In this instance, all portions of the building that contains the crematorium must be setback a minimum of one hundred (100) feet from any land zoned residential.~~

~~— (c) All crematoriums must be placed within a sound-proof building and this building shall be constructed in such a manner to reduce vibrations. The building shall also contain the proper apparatus for eliminating emissions.~~

~~— (d) All crematorium facilities shall have an annual Visual Emissions Test conducted and a copy of the inspection report provided to the City.~~

~~— (e) All crematoriums must obtain a Florida Department of Environmental Protection (FDEP) Non-Title V permit, per Fla. Stat. § 62-296.401.~~

~~— (12) Pest control businesses.~~

~~— (E) Prohibited uses and structures:~~

~~— (1) All uses not specifically or provisionally permitted herein; any uses not in keeping with the community commercial character of the district.~~

~~— (2) Corrections facilities.~~

~~— (3) Pain management clinic.~~

~~— (4) Electronic gaming establishments.~~

~~— (F) Lot and structure requirements:~~

~~— (1) Minimum lot area — twelve thousand five hundred (12,500) square feet.~~

~~— (2) Minimum lot width — one hundred (100) feet.~~

~~— (3) Minimum lot depth — one hundred and twenty-five (125) feet.~~

~~— (4) Maximum building coverage — thirty-five percent (35%).~~

~~— (5) Minimum floor area — three hundred (300) square feet.~~

~~— (6) Maximum height — seventy (70) feet.~~

~~— (7) Minimum yard requirements:~~

~~— (a) Front: thirty (30) feet minimum building setback. Parking areas may be located in the front yard except within ten (10) feet of the front lot line.~~

~~—— (b) Side interior: ten (10) feet minimum building setback. Parking areas may be located in the side yard, except within five (5) feet of the side lot line. Side yards abutting residentially zoned property shall maintain a twenty-five (25) foot minimum setback for all buildings and parking.~~

~~—— (c) Side corner: twenty-five (25) feet minimum building setback. Parking areas may be located in the side corner yard, except within ten (10) feet of any public or private street.~~

~~—— (d) Rear: twenty-five (25) feet minimum building and parking area setback; ten (10) feet when abutting a dedicated alley.~~

~~—— (8) Shared access and parking areas.~~

~~—— (a) No side interior building and parking area setbacks are required provided all of the following are met:~~

~~—— 1. Buildings on adjacent parcels, under separate ownership, are joined by a common wall;~~

~~—— 2. Parking areas and aisles are joined with adjacent parcel(s) under separate ownership;~~

~~—— 3. Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common parcels involved and a minimum spacing of one hundred and fifty (150) feet is maintained; or access is provided by an approved frontage road;~~

~~—— 4. Easements and/or written assurances of cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.~~

~~—— (b) For adjacent developments meeting the requirements of divisions 2. through 4. above, the total number of off-street parking spaces required for uses on all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenient access to all principal buildings.~~

~~—— (9) A six (6) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abutting property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this zoning code.~~

~~—— (10) Design requirements.~~

~~—(a) An Architectural Style for each structure is required. This shall include adherence to all standards contained in § 185.134.~~

~~§ 185.044 HC — HIGHWAY COMMERCIAL DISTRICT.~~

~~—(A) Intent. The purpose of the highway commercial district shall be to provide areas within Palm Bay which are deemed to be uniquely suited for the development and maintenance of highway oriented businesses and regional scale facilities, the areas to be primarily located along or near the intersection of major arterials and major transportation nodes; to designate those uses and services deemed appropriate and proper for location and development within the subject district; and to establish such development standards and provisions as are appropriate to ensure proper development and functioning of uses within the district.~~

~~—(B) Principal uses and structures. The following uses and structures are permitted:~~

~~—(1) Retail stores, sales and display rooms, including places in which goods are produced and sold at retail on premises.~~

~~—(2) Personal services establishments such as barber and beauty shops, fitness salons, laundry and dry cleaning establishments using noninflammable solvents as determined by the Fire Chief, tailor shops and similar uses.~~

~~—(3) Professional offices, studios, clinics, general offices, business schools and similar uses, including veterinarian clinics provided all activities are within the principal structure and there is no boarding of animals.~~

~~—(4) Hotels, motels, tourist courts.~~

~~—(a) The minimum living area per hotel/motel efficiency unit shall be two hundred and eighty (280) square feet.~~

~~—(b) There shall be no more than fifty (50) rental units per acre.~~

~~—(5) Eating and drinking establishments including drive-through facilities.~~

~~—(6) Indoor commercial recreation such as theaters, driving ranges, bowling alleys and similar uses, excluding dance clubs, fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval.~~

~~—(7) Banks and financial institutions with drive-through facilities.~~

~~— (8) Retail stores using outside display areas including plant nurseries, and building supplies providing the following provisions are met:~~

~~— (a) The outside display area may be open along the front of the lot but shall be effectively screened with a six (6) foot opaque wall or fence rendering the sides and rear opaque in order to avoid any deleterious effect on adjacent properties.~~

~~— (b) The outside display area shall be considered the same as the floor area for the purpose of calculating off-street parking requirements, yard and lot coverage regulations.~~

~~— (c) All outside display items with the exception of new and/or used vehicles for sale shall meet a twenty (20) foot front and side setback and a thirty (30) foot rear setback. New and used vehicles for sale or rent shall meet the parking setback requirements established in division (E)(7) below.~~

~~— (9) Public and private clubs and lodges including golf courses and similar activities.~~

~~— (10) New and used motor vehicles, major recreational equipment and mobile home sales and rentals with accessory uses; subject to the following restrictions:~~

~~— (a) All outside areas where merchandise is displayed shall be paved.~~

~~— (b) All servicing and repair facilities, except for gasoline pumps, shall be located in an enclosed structure.~~

~~— (c) There shall be no storage of junked or wrecked automobiles other than temporary storage for those awaiting repair. Such temporary storage shall be in an enclosed area and the vehicles shall not be visible from outside the property. All vehicles shall have attached at all times a current vehicle registration license plate.~~

~~— (d) Used motor vehicles may only be sold on the same site as a new motor vehicle dealership.~~

~~— (11) Auto repair, paint, upholstery and body shops subject to provisions (10)(a) through (c) above.~~

~~— (12) Public utility equipment and facilities not located within a public utility easement.~~

~~— (13) Hospitals and nursing homes.~~

~~— (14) Schools, churches, and libraries.~~

~~— (15) Day care centers.~~

- ~~—(16) Business service establishments.~~
- ~~—(17) Dry cleaning.~~
- ~~—(18) Funeral homes.~~
- ~~—(19) Xerographic and off-set printing.~~
- ~~—(20) Public and private parking lots and garages.~~
- ~~—(21) Public uses.~~
- ~~—(22) Arcade amusements centers; subject to the following regulations:~~
 - ~~—(a) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line, of any school.~~
 - ~~—(b) No two facilities, operating pursuant to this subdivision, shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility.~~
 - ~~—(c) The number of devices within the facility shall be governed by the Land Development Code of the City of Palm Bay, as well as applicable Florida Statutes and laws.~~
- ~~—(23) Contractors' offices (plumbers, electricians, carpenters, masons, roofers, builders, cabinet makers, fence installers, gutter and siding installers, flooring and tile installers, drywall installers, painters, heating and air conditioning installers, glass repair and replacement and similar uses):~~
 - ~~—(a) All work shall be conducted within an enclosed structure.~~
 - ~~—(b) Any outside storage of vehicles and/or materials used or needed in conjunction with the business shall be stored upon an improved surface and shall be screened on all sides with a minimum six-foot-tall opaque material, as approved by the Land Development Division.~~
- ~~—(24) Brew pubs and/or other drinking establishments.~~
- ~~—(C) Accessory uses and structures. Customary accessory uses of one (1) or more of the principal uses clearly subordinate to the principal use, in keeping with the intense commercial character of the district.~~
- ~~—(D) Conditional uses.~~
- ~~—(1) Permitted uses located on a parcel of ten (10) or more acres of area.~~

~~—(2) Retail automotive gas/fuel sales:~~

~~—(a) Access. Retail automotive gas/fuel establishments shall be located on arterial roadways, at a signalized intersection of a major road collector, or on corner lots at intersections of collector streets or higher functional classification as identified in the adopted Palm Bay Comprehensive Plan. No more than two (2) corner lots at any one (1) intersection shall be used for retail gasoline or automotive fuel sales. No driveway or access shall be permitted within one hundred (100) feet from an intersection of collector streets or higher functional classification.~~

~~—(b) Minimum street frontage: one hundred and fifty (150) feet on each abutting street.~~

~~—(c) Location of facilities. Gasoline/ fuel pumps, storage tanks and other service island equipment shall be at least forty (40) feet from all property lines, fifteen (15) feet from any building, and one hundred (100) feet from the nearest residentially zoned land. No gasoline/fuel pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.~~

~~—(d) Tank storage: Underground storage required for all receptacles for combustible materials in excess of two hundred (200) gallons.~~

~~—(e) The proposed use will not constitute a nuisance or hazard because of vehicular traffic movement, delivery of fuel movement, noise or fume generation.~~

~~—(f) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility or disharmony with adjoining properties.~~

~~—(g) Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with §§ 176.01 et seq.~~

~~—(3) Commercial radio and television broadcasting.~~

~~—(4) Marinas.~~

~~—(5) Car washes.~~

~~—(6) Self storage facilities subject to the provisions established in § 185.088(F).~~

~~—(7) Communication towers and facilities.~~

~~—(8) Eating and drinking establishments that allow patrons to dance to music, subject to the provisions set forth in § 185.088(H).~~

~~—(9) Indoor dance clubs, outdoor recreation, and outdoor amusement such as amusement parks, driving ranges, batting cages, go-cart tracks, outdoor skating facilities, miniature golf courses and similar uses.~~

~~—(E) Prohibited uses and structures.~~

~~—(1) All uses not specifically or provisionally permitted herein; any use not in keeping with the commercial character of the district.~~

~~—(2) Corrections facilities.~~

~~—(3) Pain-management clinic.~~

~~—(4) Electronic gaming establishments.~~

~~—(F) Lot and structure requirements:~~

~~—(1) Minimum lot area — fifteen thousand six hundred and twenty-five (15,625) square feet.~~

~~—(2) Minimum lot width — one hundred and twenty-five (125) feet.~~

~~—(3) Minimum lot depth — one hundred and twenty-five (125) feet.~~

~~—(4) Maximum building coverage — thirty-five percent (35%).~~

~~—(5) Minimum floor area — three hundred (300) square feet.~~

~~—(6) Maximum height — forty (40) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — fifty (50) feet minimum building setback. Parking areas may be located in the front yard, except within ten (10) feet of the front lot line.~~

~~—(b) Side interior — twenty (20) feet minimum building setback. Parking areas may be located in the side yard, except within ten (10) feet of the side lot line. Side yards abutting residentially zoned property shall maintain a twenty-five (25) foot minimum setback for all buildings and parking.~~

~~—(c) Side corner — twenty-five (25) feet minimum building setback. Parking areas may be located in the side corner yard, except within ten (10) feet of any public or private street.~~

~~—(d) Rear — thirty (30) feet minimum building and parking area setback; fifteen (15) feet when abutting a dedicated alley.~~

~~—(8) Shared access and parking areas.~~

~~— (a) No side interior building and parking area setbacks are required provided all of the following are met:~~

~~— 1. Buildings on adjacent parcels, under separate ownership, are joined by a common wall;~~

~~— 2. Parking areas and aisles are joined with adjacent parcel(s) under separate ownership.~~

~~— 3. Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common by all parcels involved and a minimum spacing of two hundred (200) feet is maintained; or access is provided by an approved frontage road.~~

~~— 4. Easements and/or written assurances of cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.~~

~~— (b) For adjacent developments meeting the requirements of divisions 2. through 4. above, the total number of off-street parking spaces required for uses and all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenient access to all principal buildings.~~

~~— (9) A six (6) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abutting property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this zoning code.~~

~~— (10) Design requirements.~~

~~— (a) An Architectural Style for each structure is required. This shall include adherence to all standards contained in § 185.134.~~

~~§ 185.045 LI — LIGHT INDUSTRIAL AND WAREHOUSING DISTRICT.~~

~~— (A) Intent. The provisions of this district are intended to apply to an area which can serve light manufacturing, warehousing, distribution, wholesaling and other light industrial functions for the city and the region. Lot sizes and other restrictions are intended to ensure sufficient open space and minimize adverse impacts of industrial uses off site and to nonindustrial uses.~~

~~— (B) Principal uses and structures:~~

- ~~—(1) Warehousing within an enclosed structure.~~
- ~~—(2) Wholesaling within an enclosed structure.~~
- ~~—(3) Dry cleaning and laundry plants, printing plants, welding shops, machine shops, taxidermists and similar service and repair establishments and uses.~~
- ~~—(4) Light manufacturing, processing and assembly including precision manufacturing, electrical machinery, instrumentation, bottling plants, dairy products plants, bakeries, fruit packing and similar uses.~~
- ~~—(5) Building materials supply and storage, provided that any outside display and/or storage area shall be screened on all sides to avoid any deleterious impact on adjacent properties; includes contractor storage yards.~~
- ~~—(6) Automotive, truck, major recreational equipment and mobile home sales, storage and repair establishment including, body shops, dry docking facilities, paint shops, upholstery shops and similar uses provided that outside storage of vehicles not for sale shall be effectively screened on four (4) sides so as to avoid off-site visual impacts.~~
- ~~—(7) Vocational and trade schools.~~
- ~~—(8) Veterinary hospitals and clinics including boarding of animals.~~
- ~~—(9) Radio or television transmitter, towers or broadcasting facilities.~~
- ~~—(10) Research and development facilities provided all activities are within an enclosed structure.~~
- ~~—(11) Public utility equipment and facilities.~~
- ~~—(12) Public uses.~~
- ~~—(13) Communication towers and facilities.~~
- ~~—(14) Medical Recycling Facility.~~
- ~~—(15) Canine training and similar uses, provided all activities are within the principal structure and there is no boarding of animals.~~
- ~~—(16) Self-storage facilities.~~
- ~~—(17) Indoor commercial recreation such as theaters, driving ranges, bowling alleys, and similar uses, excluding dance clubs, fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval.~~

~~—(C) Accessory uses and structures:~~

~~—(1) Customary accessory uses clearly incidental and subordinate to one (1) or more principal uses.~~

~~—(2) Retail sales of products manufactured, processed or stored on the premises, provided the sales area constitutes no more than 15% of the total area of the space occupied by the business.~~

~~—(3) Offices clearly accessory to one (1) or more principal uses.~~

~~—(D) Conditional uses:~~

~~—(1) Automotive fuel, propane, and natural gas dispensaries and refueling stations subject to the following provisions:~~

~~—(a) Location of facilities: All pumps, storage tanks and other service island equipment shall be at least twenty (20) feet from all property lines, fifteen (15) feet from any building and one hundred (100) feet from the nearest residentially owned land. No pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.~~

~~—(b) Liquid gasoline, liquid kerosene, or liquid diesel fuels may be stored onsite for use by the operator of the property and stored onsite for offsite delivery to the general public, and stored, dispensed, and sold onsite to the general public for onsite sales of such substances.~~

~~—(c) Liquid and non-liquid propane, and liquid and non-liquid natural gas and other petroleum-based fuel products (including liquid gasoline, liquid kerosene, or liquid diesel fuel) may be stored onsite for the use of the operator of the property, stored and sold onsite for offsite delivery to the general public, and stored, dispensed, and sold onsite to the general property.~~

~~—(d) The proposed use will not constitute a nuisance or hazard because of vehicular travel movement, delivery of fuel movement, noise or fume generation.~~

~~—(e) Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with §§ 176.01 et seq.~~

~~—(2) Freight handling and transportation terminals.~~

~~—(3) Planned industrial developments including office and business parks.~~

~~—(4) Corrections facilities subject to the following:~~

~~—(a) Minimum area required: 20 acres.~~

- ~~—— (b) Shall not be located within 1,000 feet of any residentially zoned property.~~
- ~~—— (5) Public and private schools.~~
- ~~—— (6) Tree and landscape recycling, subject to the following:~~
 - ~~—— (a) A minimum lot size of five (5) acres.~~
 - ~~—— (b) An eight (8) foot opaque fence or wall surrounding the site on all sides.~~
 - ~~—— (c) A one hundred (100) foot setback between any property line and any operation of tree or landscape recycling machinery (with the exception of vehicle or product storage).~~
 - ~~—— (d) A two hundred fifty (250) foot buffer between any residentially zoned land and any operation of tree or landscape recycling machinery (with the exception of vehicle or product storage).~~
 - ~~—— (e) Tree and landscape recycling operations restricted to 8:00 a.m. to 6:00 p.m.~~
 - ~~—— (f) Strict adherence to Maximum Permissible Sound Levels for Industrial Land, as set forth in Table 1 of § 92.06, Palm Bay Code of Ordinances.~~
- ~~—— (E) Prohibited uses and structures:~~
 - ~~—— (1) All uses not specifically or provisionally permitted herein.~~
- ~~—— (F) Lot and structure requirements:~~
 - ~~—— (1) Minimum lot area — twenty thousand (20,000) square feet.~~
 - ~~—— (2) Minimum lot width — one hundred (100) feet.~~
 - ~~—— (3) Minimum lot depth — two hundred (200) feet.~~
 - ~~—— (4) Maximum building coverage — fifty percent (50%).~~
 - ~~—— (5) Minimum floor area — None.~~
 - ~~—— (6) Maximum height — one hundred (100) feet.~~
 - ~~—— (7) Minimum yard requirements:~~
 - ~~—— (a) Front — forty (40) feet minimum building setback, parking areas may be located in the front yard except within ten (10) feet of the front lot line.~~
 - ~~—— (b) Side interior — twenty (20) feet minimum building setback. Parking areas may be located in the side yard except within ten (10) feet of the side lot line.~~

~~—— (c) Side corner —— twenty-five (25) feet minimum building setback. Parking areas may be located in the side corner yard except within ten (10) feet of the side corner lot line.~~

~~—— (d) Rear —— twenty-five (25) feet.~~

~~—— (8) An eight (8) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abutting property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this zoning code.~~

~~§ 185.046 HI —— HEAVY INDUSTRIAL DISTRICT.~~

~~—— (A) Intent. The provisions of this district are intended to apply to an area in close proximity to major transportation facilities and which can serve general manufacturing, storage and distribution needs of the city and region. Lot sizes and other restrictions are intended to minimize adverse impacts to adjacent properties.~~

~~—— (B) Principal uses and structures:~~

~~—— (1) Warehousing.~~

~~—— (2) Wholesaling.~~

~~—— (3) Dry cleaning and laundry plants, printing plants, welding shops, machine shops, taxidermists and similar service and repair establishments and uses.~~

~~—— (4) Light manufacturing, processing and assembly including precision manufacturing, electrical machinery, instrumentation, bottling plants, dairy products plants, bakeries, fruit packing, and similar uses.~~

~~—— (5) Building materials supply and storage, provided that any outside display and/or storage area shall be screened on all sides to avoid any deleterious impact on adjacent properties; includes contractor storage yards.~~

~~—— (6) Automotive, truck, major recreational equipment and mobile home sales, storage and repair establishment including, body shops, dry docking facilities, paint shops, upholstery shops and similar uses provided that outside storage of vehicles not for sale shall be effectively screened on four (4) sides so as to avoid off-site visual impacts.~~

~~—— (7) Vocational and trade schools.~~

~~—— (8) Veterinary hospitals and clinics, including boarding of animals.~~

~~—— (9) Radio or television transmitter, towers or broadcasting facilities.~~

- ~~—(10) Research and development facilities.~~
- ~~—(11) Public utility equipment and facilities.~~
- ~~—(12) Freight handling and transportation terminals.~~
- ~~—(13) Printing, publishing and similar uses.~~
- ~~—(14) Textile and apparel manufacturing, processing and storage.~~
- ~~—(15) Lumber and wood products manufacturing, processing and storage.~~
- ~~—(16) Public uses.~~
- ~~—(17) Communication towers and facilities.~~
- ~~—(18) Salvage Yards.~~
- ~~—(19) Medical Recycling Facility.~~
- ~~—(20) Self-storage facilities.~~
- ~~—(C) Accessory uses and structures:~~
 - ~~—(1) Customary accessory uses clearly incidental and subordinate to one (1) or more principal used.~~
 - ~~—(2) Retail sales of products manufactured, processed or stored on the premises, provided the sales area constitutes no more than 15% of the total area of the space occupied by the business.~~
 - ~~—(3) Offices clearly accessory to one (1) or more principal uses.~~
- ~~—(D) Conditional uses:~~
 - ~~—(1) Manufacturing, assembly and processing uses or facilities not specifically provided as a principal use including block and concrete plants, furniture factories, food processing, citrus processing plants, salvage yards, and canneries and similar uses.~~
 - ~~—(2) Storage of liquefied petroleum products.~~
 - ~~—(3) Fabricated metal products.~~
 - ~~—(4) Chemicals and similar products.~~
 - ~~—(5) Automotive fuel tanks and pumps subject to the following provisions:~~
 - ~~—(a) Location of facilities. Gasoline/ fuel pumps, storage tanks and other service island equipment shall be at least twenty (20) feet from all property lines, fifteen (15) feet from any building and one hundred (100) feet from the nearest~~

~~residentially zoned land. No gasoline/fuel pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.~~

~~—(b) The use of fuel pumps shall be strictly limited to the owner of the property. Sales to members of the public in general or to any private individual are hereby strictly prohibited.~~

~~—(c) The proposed use will not constitute a nuisance or hazard because of vehicular traffic movement, delivery of fuel movement, noise or fume generation.~~

~~—(d) Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with §§ 176.01 et seq.~~

~~—(6) Planned industrial developments.~~

~~—(7) Crematoriums.~~

~~—(8) Corrections facilities subject to the following:~~

~~—(a) Minimum area required: 20 acres.~~

~~—(b) Shall not be located within 1,000 feet of any residentially zoned property.~~

~~—(9) Smoke-producing industries, such as paper mills, rubber mills or regional incinerators, provided the land where such facility is operated shall be located no less than one-half (½) mile from the closest right-of-way line of Interstate 95.~~

~~—(E) Prohibited uses and structures: All uses not specifically or provisionally permitted herein.~~

~~—(F) Lot and structure requirements:~~

~~—(1) Minimum lot area — thirty thousand (30,000) square feet.~~

~~—(2) Minimum lot width — one hundred and fifty (150) feet.~~

~~—(3) Minimum lot depth — two hundred (200) feet.~~

~~—(4) Maximum building coverage — fifty percent (50%).~~

~~—(5) Minimum floor area — None.~~

~~—(6) Maximum height — one hundred (100) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — forty (40) feet minimum building setback. Parking areas may be located in the front yard except within ten (10) feet of the front lot line.~~

~~—— (b) Side interior —— twenty (20) feet minimum building setback. Parking areas may be located in the side yard except within ten (10) feet of the side lot line.~~

~~—— (c) Side corner —— twenty-five (25) feet minimum building setback. Parking areas may be located in the side corner yard except within ten (10) feet of the side corner lot line.~~

~~—— (d) Rear —— twenty-five (25) feet.~~

~~—— (8) An eight (8) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abating property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this chapter.~~

~~—— (G) Lot and structure requirements for Salvage Yards:~~

~~—— (1) Minimum lot area —— five (5) acres.~~

~~—— (2) Minimum lot width —— two hundred (200) feet.~~

~~—— (3) Minimum lot depth —— three hundred (300) feet.~~

~~—— (4) Maximum building coverage —— fifty percent (50%).~~

~~—— (5) Minimum floor area —— None.~~

~~—— (6) Maximum height —— fifty (50) feet.~~

~~—— (7) Minimum yard requirements:~~

~~—— (a) Front —— forty (40) feet minimum building setback. Parking areas may be located in the front yard except within ten (10) feet of the front lot line.~~

~~—— (b) Side interior —— twenty (20) feet minimum building setback. Parking areas may be located in the side yard except within ten (10) feet of the side lot line.~~

~~—— (c) Side corner —— twenty-five (25) feet minimum building setback. Parking areas may be located in the side corner yard except within ten (10) feet of the side corner lot line.~~

~~—— (d) Rear —— twenty-five (25) feet.~~

~~—— (8) A six (6) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abating property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this chapter.~~

~~§ 185.047 IU —— INSTITUTIONAL USE DISTRICT.~~

~~—(A) Intent. The provisions of this district are intended to apply to an area which can service the need of the city for public and semipublic facilities of an educational, governmental, recreational, health or cultural nature. Lot sizes and other restrictions are intended to ensure proper functioning and development of such uses.~~

~~—(B) Principal uses and structures:~~

~~—(1) Public educational institutions, including, but not limited to, elementary schools, junior high schools, high schools, junior or community colleges, colleges, and universities.~~

~~—(2) Governmental uses for federal, state, county, and city agencies and entities.~~

~~—(3) Public parks, playgrounds or other public recreational facilities.~~

~~—(4) Public utility equipment and facilities.~~

~~—(5) Churches.~~

~~—(6) Historic sites.~~

~~—(7) Camouflaged communication towers and facilities.~~

~~—(C) Accessory uses and structures: Customary accessory uses clearly incidental and subordinate to one (1) or more permitted uses.~~

~~—(D) Conditional uses:~~

~~—(1) Private schools.~~

~~—(2) Nonprofit youth, business, civic, service and cultural facilities and organizations.~~

~~—(3) Hospitals and associated medical clinics and offices.~~

~~—(4) Nursing homes, congregate living facilities and group care homes.~~

~~—(5) Cemetery.~~

~~—(6) Airports.~~

~~—(7) Permitted uses or uses permissible by special exception exceeding forty (40) feet in height.~~

~~—(E) Prohibited uses and structures: All uses not specifically or provisionally provided for herein.~~

~~—(1) Corrections facilities.~~

~~—(2) All uses not specifically or provisionally provided for herein.~~

~~—(F) Lot and structure requirements:~~

~~—(1) Minimum lot area — one (1) acre.~~

~~—(2) Minimum lot width — one hundred and fifty (150) feet.~~

~~—(3) Minimum lot depth — two hundred (200) feet.~~

~~—(4) Maximum building coverage — thirty percent (30%).~~

~~—(5) Minimum floor area — None.~~

~~—(6) Maximum height — forty (40) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front: twenty-five (25) feet minimum building setback. Parking areas may be located in front yard except within ten (10) feet of the front lot line.~~

~~—(b) Side interior: twenty-five (25) feet minimum building setback. Parking areas may be located in the side yard, except within ten (10) feet of the side lot line. Side yards abutting residentially zoned property shall maintain a twenty-five (25) foot minimum setback for parking.~~

~~—(c) Side corner: twenty-five (25) feet minimum building setback. Parking areas may be located in the side corner yard, except within ten (10) feet of any, public or private street.~~

~~—(d) Rear: twenty-five (25) feet minimum building and parking area setback; ten (10) feet when abutting a dedicated alley.~~

~~—(8) Shared access and parking areas.~~

~~—(a) No side interior building and parking area setbacks are required provided all of the following are met:~~

~~—1. Buildings on adjacent parcels, under separate ownership, are joined by a common wall;~~

~~—2. Parking areas and aisles are joined with adjacent parcel(s) under separate ownership;~~

~~—3. Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common parcels involved and a minimum spacing of one hundred and fifty (150) feet is maintained; or access is provided by an approved frontage road;~~

~~4. Easements and/or written assurances of cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.~~

~~(b) No interior side parking area setbacks are required provided the requirements of divisions 2. through 4. are met.~~

~~(c) For adjacent developments meeting the requirements of divisions 2. through 4. above, the total number of off-street parking spaces required for uses on all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenient access to all principal buildings.~~

~~§ 185.048 FC — FLOODWAY CONSERVATION DISTRICT.~~

~~(A) Intent. The provisions of this district are intended to protect persons and property from the hazards of floodways and to conserve important natural resources for ecological purposes, open space needs and the enjoyment and education of present and future residents.~~

~~(B) Principal uses and structures:~~

~~(1) Open space devoted to the conservation of natural waterways, vegetation and wildlife.~~

~~(2) Aquatic preserves and outstanding Florida waters.~~

~~(3) Canoe trails.~~

~~(4) Hiking and/or bicycle trails.~~

~~(5) Nature study areas and boardwalks.~~

~~(6) Fishing and wildlife preserves.~~

~~(7) Public parks.~~

~~(8) Public or private open space as part of a planned unit development, DRI or other project.~~

~~(9) Natural drainage area.~~

~~(10) Pavilions for outdoor exhibits or special nature study.~~

~~(11) Public or private storm water retention areas.~~

~~(C) Accessory uses and structures:~~

~~—(1) Customary accessory uses clearly incidental and subordinate to one (1) or more principal uses.~~

~~—(D) Conditional uses:~~

~~—(1) Single-family homes at a maximum density of one (1) unit per ten (10) acres.~~

~~—(2) Public facilities.~~

~~—(3) Boat ramps or docks.~~

~~—(4) Camping areas.~~

~~—(E) Prohibited uses and structures: All uses not specifically or provisionally provided for herein.~~

~~—(F) Lot and structure requirements:~~

~~—(1) Minimum lot area — None except as specifically provided for above.~~

~~—(2) Minimum lot width — one hundred (100) feet for single-family; none otherwise.~~

~~—(3) Minimum lot depth — two hundred (200) feet for single-family; none otherwise.~~

~~—(4) Maximum building coverage — five percent (5%).~~

~~—(5) Minimum floor area — one thousand (1,000) square feet for single-family; none, otherwise.~~

~~—(6) Maximum height — twenty-five (25) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — fifty (50) feet.~~

~~—(b) Side interior — twenty-five (25) feet.~~

~~—(c) Side corner — twenty-five (25) feet.~~

~~—(d) Rear — twenty-five (25) feet.~~

~~§ 185.049 SF-1 — SINGLE FAMILY RESIDENTIAL CATEGORY.~~

~~—(A) Intent. The provisions of this category are intended to apply to an area of medium density single-family residential development. Lot sizes, minimum living area standards, and other restrictions are intended to promote high quality residential development.~~

~~—(B) Principal uses and structures.~~

~~—(1) Single-family dwellings.~~

~~—(2) Accessory dwelling units; subject to the provisions listed in the § 185.006.~~

~~—(3) Public parks, playgrounds and other public recreational facilities.~~

~~—(4) Public utility equipment and facilities located within a utility easement or right-of-way.~~

~~—(C) Accessory uses and structures.~~

~~—(1) Customary accessory uses of a noncommercial nature clearly incidental and subordinate to one (1) or more principal uses.~~

~~—(D) Conditional uses.~~

~~—(1) Public and private schools.~~

~~—(2) Churches.~~

~~—(3) Public utility equipment and facilities, except communication towers, not located within a utility easement or right-of-way.~~

~~—(E) Prohibited uses and structures.~~

~~—(1) All uses not specifically or provisionally permitted herein.~~

~~—(F) Lot and structure requirements.~~

~~—(1) Minimum lot area — Eight thousand (8,000) square feet.~~

~~—(2) Minimum lot width — Eighty (80) feet.~~

~~—(3) Minimum lot depth — One hundred (100) feet.~~

~~—(4) Maximum building coverage — Thirty (30) percent.~~

~~—(5) Minimum living area — Fourteen hundred (1400) square feet.~~

~~—(6) Maximum height — Twenty-five (25) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — Twenty-five (25) feet.~~

~~—(b) Side interior — Eight (8) feet.~~

~~—(c) Side corner — Twenty-five (25) feet.~~

~~—(d) Rear — Twenty-five (25) feet.~~

~~—(8) Minimum one (1) car enclosed garage required at the time of the issuance of the structure's certificate of occupancy.~~

~~§ 185.050 (RESERVED).~~

~~§ 185.051 SRE — SUBURBAN RESIDENTIAL ESTATE CATEGORY.~~

~~—(A) Intent. The provisions of this category are intended to apply to an area of medium density single-family residential development. Lot sizes, minimum living area standards, and other restrictions are intended to promote high quality residential development.~~

~~—(B) Principal uses and structures:~~

~~—(1) Single-family dwellings.~~

~~—(2) Accessory dwelling units; subject to the provisions listed in the § 185.006.~~

~~—(3) Public parks, playgrounds and other public recreational facilities.~~

~~—(4) Public utility equipment and facilities located within a utility easement or right-of-way.~~

~~—(C) Accessory uses and structures.~~

~~—(1) Customary accessory uses of a non-commercial nature clearly incidental and subordinate to one (1) or more principal uses.~~

~~—(2) A security dwelling unit may be provided within a subdivision and shall adhere to the following standards:~~

~~—(a) The unit will only be permitted in conjunction with a subdivision that offers large, estate homes on medium to low density lot sizes.~~

~~—(b) No person(s) under the age of eighteen (18) may reside within the unit, and at no time may the unit be occupied by more than two (2) persons.~~

~~—(c) The unit may contain no more than one thousand (1,000) square feet of gross floor area.~~

~~—(d) There may be only one (1) security dwelling unit for the subdivision.~~

~~—(e) There shall be at least one (1) parking space designated on-site for the resident of the unit.~~

~~—(D) Conditional uses.~~

~~—(1) Public and private schools.~~

~~—(2) Churches.~~

~~—(3) Public utility equipment and facilities, except communication towers, not located within a utility easement or right-of-way.~~

~~—(E) Prohibited uses and structures.~~

~~—(1) All uses not specifically or provisionally permitted herein.~~

~~—(F) Lot and structure requirements.~~

~~—(1) Minimum lot area — Eight thousand (8,000) square feet.~~

~~—(2) Minimum lot width — Eighty (80) feet.~~

~~—(3) Minimum lot depth — One hundred (100) feet.~~

~~—(4) Maximum building coverage — Forty (40) percent.~~

~~—(5) Minimum living area — Eighteen hundred (1800) square feet.~~

~~—(6) Maximum height — Twenty-five (25) feet.~~

~~—(7) Minimum yard requirements:~~

~~—(a) Front — Twenty-five (25) feet.~~

~~—(b) Side interior — Eight (8) feet.~~

~~—(c) Side corner — Twenty-five (25) feet.~~

~~—(d) Rear — Twenty-five (25) feet.~~

~~—(8) Minimum two (2) car enclosed garage required at the time of the issuance of the structure's certificate of occupancy.~~

~~§ 185.052 RC - RESTRICTED COMMERCIAL DISTRICT.~~

~~—(A) Intent. The purpose of the restricted commercial district shall be to locate and establish areas within the city which are uniquely suited for commercial development but which are transitioning from residential or other noncommercial development to commercial use. Such areas to be primarily along major transportation corridors connecting other community commercial clusters. The uses and development standards included in the district are intended to provide compatibility between uses, protect nearby residential districts, provide access control along corridors, provide quality development, enhance corridor appearance, and provide additional commercial opportunities within the city.~~

~~—(B) Principal uses and structures. The following uses and structures are permitted:~~

- ~~— (1) Professional offices: accounting, architecture, engineering, dentistry, medical, insurance, legal, real estate, financial services (non-banking), and similar uses.~~
- ~~— (2) General offices: administrative, corporate, business, and similar uses.~~
- ~~— (3) Personal services: beauty, barber, dry cleaning pick-up, and similar uses (minimum fifteen thousand (15,000) square foot lot).~~
- ~~— (4) Business services: graphic design, interior design, advertising, photography, printing, employment services, telemarketing, business schools, and similar uses (minimum fifteen thousand (15,000) square foot lot).~~
- ~~— (5) Financial institutions: banks, credit unions and savings and loans (minimum fifteen thousand (15,000) square foot lot).~~
- ~~— (6) Retail sales and service: clothing, jewelry, luggage, shoes, electronics, sporting goods, books, gift shops, florists, photographic supplies, art dealers, tobacco products, grocery stores, drug stores, cosmetic and beauty supply, optical, specialty food, and similar uses (minimum fifteen thousand (15,000) square foot lot).~~
- ~~— (7) Veterinarians and veterinary clinics provided all activities are within the principal structure and there is no boarding of animals (minimum fifteen thousand (15,000) square foot lot).~~
- ~~— (8) Schools licensed by the State of Florida (minimum fifteen thousand (15,000) square foot lot).~~
- ~~— (9) Day care centers licensed by the State of Florida (minimum fifteen thousand (15,000) square foot lot), provided the lot has frontage on an Arterial or Collector Roadway, as identified in the adopted City Comprehensive Plan.~~
- ~~— (10) Public uses: any federal, state, county, municipal, special district, or similar use.~~
- ~~— (11) Funeral homes (minimum fifteen thousand (15,000) square foot lot).~~
- ~~— (12) Eating establishments: restaurants, coffee shops, pastry shops, ice cream parlors, cafeterias, snack shops, and similar uses (minimum fifteen thousand (15,000) square foot lot).~~
- ~~— (13) Contractors' administrative offices: plumbers, electricians, carpenters, masons, roofers, builders, cabinet makers, fence installers, gutter and siding installers, flooring and tile installers, drywall installers, painters, heating and air~~

~~conditioning installers, glass repair and replacement, and similar uses, provided no storage occurs at the site, no construction equipment is parked or stored at the site, and all parking is on a paved surface (minimum fifteen thousand (15,000) square foot lot).~~

~~—(C) Accessory uses and structures. Customary accessory uses of one (1) or more of the principal uses, clearly incidental and subordinate to the principal use, in keeping with the low intensity commercial nature of the district. All storage shall be within an enclosed structure unless clearly provided or excluded for herein.~~

~~—(D) Conditional uses:~~

~~——(1) Major retail sales, rental and service: building supply, major appliances, furniture, paint, hardware, lawn and garden supplies, consumer goods rentals, and similar uses (minimum fifteen thousand (15,000) square foot lot).~~

~~——(2) Plant nurseries, greenhouses (minimum fifteen thousand (15,000) square foot lot).~~

~~——(3) Public utility facilities.~~

~~——(4) Clubs, lodges, and fraternal organizations (minimum fifteen thousand (15,000) square foot lot).~~

~~——(5) Hospitals and nursing homes (minimum fifteen thousand (15,000) square foot lot).~~

~~——(6) Model home centers subject to the following:~~

~~——(a) No storage of construction materials is permitted on the site.~~

~~——(b) Off-street parking must be provided at one (1) space per three hundred (300) square feet of overall building.~~

~~——(c) Minimum lot area for the combined center is fifteen thousand (15,000) square feet.~~

~~——(d) The site and buildings only be utilized for sales and marketing purposes.~~

~~——(e) No residential use is permitted.~~

~~——(f) Only a sales office and homes representing those offered for sale by the builder are permitted uses under this category.~~

~~—(E) Prohibited uses and structures.~~

~~——(1) All uses not specifically permitted herein.~~

- ~~—(2) Building services: pest control, carpet cleaning, janitorial, water treatment, vending, and similar uses.~~
- ~~—(3) Retail automotive fuel sales.~~
- ~~—(4) Drinking establishments.~~
- ~~—(5) Pawn shops.~~
- ~~—(6) Tattoo parlors.~~
- ~~—(7) Contractors' offices with outside storage: plumbers, electricians, carpenters, masons, roofers, builders, cabinet makers, fence installers, gutter and siding installers, flooring and tile installers, drywall installers, painters, heating and air conditioning installers, glass repair and replacement, and similar uses.~~
- ~~—(8) Dancing in eating establishments.~~
- ~~—(9) Fireworks sales.~~
- ~~—(10) Fortune tellers, tarot card reading, palm readers, and similar uses.~~
- ~~—(11) Commercial towers.~~
- ~~—(12) Pain-management clinic.~~
- ~~—(F) Lot and structure requirements.~~
 - ~~—(1) Minimum lot area fifteen thousand (15,000) square feet.~~
 - ~~—(2) Minimum lot width one hundred (100) feet.~~
 - ~~—(3) Minimum lot depth one hundred fifty (150) feet.~~
 - ~~—(4) Maximum building coverage thirty-five percent (35%).~~
 - ~~—(5) Minimum floor area three hundred (300) square feet.~~
 - ~~—(6) Maximum height twenty-five (25) feet.~~
 - ~~—(7) Minimum yard requirements:~~
 - ~~—(a) Front: Forty (40) foot minimum building setback. Thirty (30) foot minimum building setback for front yards which face an arterial road. Parking areas may be located in the front yard except within fifteen (15) feet on the front lot line or ten (10) feet for parking areas located in a front yard which face an arterial road.~~
 - ~~—(b) Side interior: Ten (10) foot minimum building setback. Parking areas may be located in the side yard, except within five (5) feet of the side lot line. Side~~

~~yards abutting residentially zoned property shall maintain a thirty (30) feet minimum setback for all buildings and parking.~~

~~—— (c) Side corner: Twenty-five (25) feet minimum building setback. Parking areas may be located in side corner yard, except within ten (10) feet of any street.~~

~~—— (d) Rear: Thirty (30) feet minimum building and parking setback.~~

~~—— (8) Shared access and parking areas:~~

~~—— (a) No side interior building and parking area setbacks are required provided all of the following are met:~~

~~—— 1. Buildings on adjacent parcels, under separate ownership, are joined by a common wall.~~

~~—— 2. Parking areas and aisles are joined with adjacent parcel(s) under separate ownership.~~

~~—— 3. Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common parcels involved and a minimum spacing of one hundred fifty (150) feet is maintained, or access is provided by an approved frontage road.~~

~~—— 4. Easements and/or written assurances of cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, common facilities from all property owners involved must be approved prior to the issuance of a building permit.~~

~~—— (b) No interior side parking area setbacks are required, provided the requirements of subdivisions (8)(a)2. through 4. above are met.~~

~~—— (c) For adjacent developments meeting the requirements of subdivisions (8)(a)2. through 4. above, the total number of off-street parking spaces required for uses on all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenient access to all principal buildings.~~

~~—— (9) Wall requirements. An eight (8) foot high completely opaque masonry wall shall be provided along the entire length of any side or rear property line abutting property zoned residential. This required masonry wall shall provide a finished treatment on all sides and shall be set back from the property line a minimum of three (3) feet to provide adequate room for maintenance of both sides of the wall.~~

~~—— (10) Design requirements:~~

~~— (a) An Architectural Style for each structure is required. This shall include adherence to all standards contained in § 185.134.~~

~~— (11) Signs. Maximum height for any detached sign shall be ten (10) feet. All other criteria of the Sign Code shall be met.~~

~~— (12) Landscaping. All lots abutting residentially zoned land shall plant a minimum of one (1) tree for every thirty five (35) feet of abutting distance. These required trees shall be a minimum of ten (10) feet in height at planting and shall be placed on the commercial lot between the residential property and any buildings or parking on the commercial lot.~~

~~§ 185.053 BMUV - BAYFRONT MIXED USE VILLAGE DISTRICT.~~

~~— (A) Intent. The purpose of the Bayfront mixed use village (BMUV) district is to provide areas within the Bayfront Redevelopment District for an attractive and functional mix of residential, office, neighborhood supporting commercial, institutional, and other similar low intensity land uses that are linked by a network of walkways to create a village center as recommended in the Bayfront Redevelopment Plan.~~

~~— (B) Principal uses and structures.~~

~~— (1) Single family dwellings.~~

~~— (2) Multiple family dwellings provided that in no case shall there be more than ten (10) dwelling units per gross residential acre.~~

~~— (3) Professional offices such as accounting, architecture, engineering, dentistry, medical, insurance, real estate, financial services, title companies and similar uses.~~

~~— (4) General offices such as administrative, corporate, business, and similar uses.~~

~~— (5) Personal service such as beauty, barbers, dry cleaning pick-up, tailoring and similar uses.~~

~~— (6) Business service such as graphic design, interior design, advertising, photography, printing, employment services, telemarketing, business schools, and similar uses.~~

~~— (7) Financial institutions (banks, credit unions, and savings and loan).~~

~~— (8) Retail sales and service (clothing, jewelry, luggage, shoes, electronics, sporting goods, gift shops, florists, photographic supplies, art dealers, antique~~

~~shops/dealers, tobacco products, grocery stores, convenience stores, drug stores, cosmetic and beauty supply optical specialty food, and similar uses).~~

~~—(9) Veterinary clinics provided all activities are within the principal structures and there is no boarding of animals.~~

~~—(10) Schools, churches, libraries, and museums.~~

~~—(11) Day care centers.~~

~~—(12) Public uses (any federal, state, county, municipal, special district, or similar use).~~

~~—(13) Funeral homes.~~

~~—(14) Eating establishments (restaurants, coffee shops, pastry shops, ice cream parlors, cafeterias, snack shops, and similar uses).~~

~~—(15) Retail bakeries.~~

~~—(16) Plant nurseries, greenhouses.~~

~~—(17) Clubs, lodges, and fraternal organizations.~~

~~—(18) Nursing homes and adult congregate living facilities.~~

~~—(19) Repair service establishments excluding auto repair.~~

~~—(20) Hotel, motel, and bed and breakfast inns.~~

~~—(21) Public and private parking lots.~~

~~—(C) Accessory uses and structures. Customary accessory uses of one or more of the principal uses, clearly incidental and subordinate to the principal use, in keeping with the objectives of a village environment. All storage shall be in an enclosed structure unless clearly provided for herein.~~

~~—(D) Conditional uses.~~

~~—(1) Public utility facilities.~~

~~—(2) On-premise alcohol consumption accessory to an eating establishment.~~

~~—(3) Eating establishment with sidewalk/ outdoor table service.~~

~~—(4) Dancing in eating establishments.~~

~~—(5) Marinas with boat sales and rentals.~~

~~—(6) Residential and nonresidential uses in the same structure.~~

~~—(E) Prohibited uses and structures.~~

~~—(1) All uses not specifically permitted herein.~~

~~—(2) Retail automotive fuel sales.~~

~~—(3) Pawn shops.~~

~~—(4) Tattoo parlors and body piercing establishments.~~

~~—(5) Contractors' offices with outside storage (plumbers, electricians, carpenters, masons, roofers, builders, cabinet makers, fence installers, gutter and siding installers, flooring and tile installers, drywall installers, painters, heating and air-conditioning installers, glass repair and replacement, and similar uses).~~

~~—(6) Adult entertainment.~~

~~—(7) Fireworks sales.~~

~~—(8) Commercial towers.~~

~~—(9) Automotive/vehicle repair and auto body repair, painting, and storage of junk vehicles.~~

~~—(10) Vehicle/automotive sales/lease.~~

~~—(11) Palm readers/fortunetellers and similar uses.~~

~~—(12) Flea markets and auction houses and similar uses.~~

~~—(13) Soup kitchens/homeless shelters.~~

~~—(14) Pain management clinic.~~

~~—(F) Lot and structure requirements.~~

~~—(1) Minimum lot area – four thousand eight hundred (4,800) square feet.~~

~~—(2) Minimum lot width – forty (40) feet.~~

~~—(3) Minimum lot depth – one hundred twenty (120) feet.~~

~~—(4) Maximum building coverage – sixty percent (60%).~~

~~—(5) Maximum height – thirty-five (35) feet.~~

~~—(6) Minimum floor area (nonresidential) – three hundred (300) square feet.~~

~~—(7) Minimum living area for single family detached dwellings – None.~~

~~—(8) Minimum living area for multifamily units: None.~~

~~—(9) Yard requirements:~~

- ~~—— (a) Front: zero (0) foot minimum, twenty (20) foot maximum.~~
- ~~—— (b) Side interior: five (5) feet minimum.~~
- ~~—— (c) Side corner: zero (0) foot minimum, twenty (20) foot maximum.~~
- ~~—— (d) Rear: twenty (20) foot minimum; ten (10) minimum feet when abutting a right-of-way or alley.~~
- ~~—— (e) Accessory structures: minimum twenty (20) foot front and side corner, same side and rear as listed in divisions (b) and (d) above.~~
- ~~—— (10) Shared access and parking areas:~~
 - ~~—— (a) Off-street parking for non-residential uses shall be behind or to the side of the nonresidential building with a minimum of four (4) foot setback from a right-of-way line.~~
 - ~~—— (b) On-street parking spaces along the front property line shall be counted toward the minimum number of parking spaces required for that use on that lot, except where there are driveway curb cuts.~~
 - ~~—— (c) No side interior building and parking area setbacks are required for nonresidential buildings provided all of the following are met:~~
 - ~~—— 1. Buildings on adjacent parcels, under separate ownership, are joined by a common wall.~~
 - ~~—— 2. Parking areas and aisles are joined with adjacent parcel(s) under separate ownership.~~
 - ~~—— 3. Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common for the parcels involved and a minimum spacing of one hundred fifty (150) feet is maintained, or access is provided by an approved frontage road.~~
 - ~~—— 4. Easements and/or written assurances of cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.~~
 - ~~—— (d) For adjacent developments meeting the requirements of divisions 2 through 4 above, the total number of off-street parking spaces required for uses on all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenience access to all principal buildings.~~

~~— (11) Design requirements:~~

~~— (a) The Bayfront Architectural Style for each structure is required. This shall include the following architectural elevations facing public rights-of-way.~~

~~— 1. A metal panel, 5-seam or metal shake roof is acceptable. A 5-tab twenty-five (25) year dimensional shingle roof or manufactured equivalent of a wood shake roof is acceptable. 3-tab shingles, barrel vaulted tiles, or corrugated roof systems are not permissible.~~

~~— 2. Pitch of main roof, hipped or gable, shall be no greater than 5:12 and no less than 3:12; mansard roof shall be no greater than 9:12; porch roof shall be a lower pitch than the main roof.~~

~~A minimum 6" overhang is required for any roof structure. All structures must have a minimum 3:12 slope roof. Multiple roof systems with matching roof slopes are permissible. Low slopes (Flat) roof systems are permissible when screened by a mansard roof or parapet wall meeting the design requirements.~~

~~— 3. The predominant exterior color shall be pastel shades or white; earth tones are not acceptable except in brick.~~

~~— 4. Manufactured brick or materials that have the appearance of brick are acceptable. Horizontally struck stucco, exterior insulated finish system stucco panels, boards and batten, wood or vinyl siding, and stained hardwood panels shall also be considered acceptable finishes.~~

~~— 5. Front porch. The front porch must encompass an area greater than fifty percent (50%) of the front facade. The porch must be a minimum of 60" in depth.~~

~~— 6. Gingerbread trim and/or porch railings, columns or shall have the appearance of light frame wood construction.~~

~~— 7. Trim colors shall be white or light pastels. (Trim shall be considered railings, columns, door and window surrounds, soffits, shutters, gutters and downspouts, and other decorative elements.) Trim finishes shall be a contrasting lighter color than that of the primary building color with the exception of white as a primary building color.~~

~~— 8. There shall be no area greater than 400 square feet of contiguous blank wall area on any front facade that remains unadorned by architectural features that include, but are not limited to, windows, doors, lights, banding trim or porch elements.~~

~~9. There shall not be any singular facade that has greater than 100' lineal feet of run without a minimum 16" break, by using a directional or material change.~~

~~10. Metal clad structures are permissible. Internal bracing must be certified to accept additional finishes or structures applied to the exterior metal panels. No external X bracing is to be visible on any front facade. Finish panels must be able to accept a painted finish. All exterior wall finishes must match the primary building color. The use of corrugated, synthetic or fiberglass panels is prohibited on any front wall or any front roof surface. All design requirements must be met for metal clad structures as for any other new structures.~~

~~(b) The predominant exterior color shall be applied to all sides of the structure.~~

~~(c) The design requirements listed in division (11)(a) above shall be applicable to all new construction in the district, and in the case of additions or renovations to, or development of, an existing building or project, where the addition, renovation or redevelopment exceeds fifty percent (50%) of the square footage of the existing structure(s). A mirror building, defined as a building meant to compliment a pre-existing structure by use of identical material finishes, scale and form, shall be exempt from the design requirements. New buildings that are part of an overall campus plan that has an established architectural theme shall also be exempt from the design requirements herein.~~

~~(d) The design requirements listed in division (11)(a) above shall be applicable to all accessory structures not exempted by division (11)(c). Any accessory structure not meeting this requirement shall be screened so as not to be visible from the public right-of-way. Mechanical equipment such as drive-through menu boards and speaker stations, drive-through teller stations, ATM's, and similar appliances which require direct access by the public shall be exempt from the design review requirements of this subsection.~~

~~(e) Compliance with the requirements set forth in this subsection shall be demonstrated by submittal of building front elevations and color and material samples at the time of site plan review.~~

~~(f) Structures in the following use category are exempt from the design review requirements of this subsection: public utility equipment and churches.~~

~~(g) The city sign code shall be adhered to with the following additional requirements:~~

~~1. Materials: The color, construction, and material of each sign shall be compatible with the architecture on the site.~~

~~2. Design: Every sign frame or support shall be designed as a sympathetic architectural element of the building(s) to which it is principally related.~~

~~3. Free standing signs shall have landscaping at the base.~~

~~(h) Structures having a federal or state historic site status shall be exempt from this subsection.~~

~~(i) Garages for residential structures and uses shall not be located closer to the front or side corner lot line than the foremost facade of the principal building, i.e., "snout houses" are not permitted.~~

~~(j) The City Council may, by resolution, adopt such administrative policies, manuals and/or fees as necessary to implement the design requirements identified above.~~

~~(12) Signs. Maximum height for any detached sign shall be ten (10) feet. All other criteria of the Sign Code shall be met.~~

~~(13) Landscaping. Properties within the Bayfront mixed use village district are exempt from the development standards of § 185.142(B)(1) and (2), Off-Street Parking Area Landscape Requirements, however properties within the district shall meet all the other requirements of § 135.142 in addition to the following landscape development standards:~~

~~(a) One (1) tree per every forty (40) feet of the property frontage shall be planted between the right-of-way line and the front or side corner building line for all properties.~~

~~(b) Any off-street parking space or parking lot in the Bayfront mixed use village district that abuts a street right-of-way shall be buffered from the right-of-way by a landscape area of no less than four (4) feet of width in which is located a continuous row of shrubs no less than two (2) feet in height.~~

~~(c) In addition, where off-street parking is required for multiple family residential and nonresidential uses, such parking shall meet the interior parking area landscape requirements of § 185.142(3) of the code.~~

~~(14) Sidewalks. Sidewalks shall be provided to create a pedestrian access to the proposed project and to adjacent properties. All sidewalks shall:~~

~~—— (a) Be constructed of concrete with a raised curb separating the sidewalk from on-street parking.~~

~~—— (b) Be a minimum of four (4) feet in width.~~

~~—— (c) Comply with city engineering design standards.~~

~~—— (15) Fence/walls. The construction, erection, and maintenance of walls and fences shall be permitted per the city's fence code (§§ 170.110 through 170.122) with the following exceptions and additions:~~

~~—— (a) Chain link fence cannot be placed within twenty (20) feet of the front or side corner property lines, except that chain link fencing is prohibited on property containing residential buildings. Such projects may only erect a fence of wooden, PVC, or wrought iron material.~~

~~—— (b) Fence and wall height shall be limited to four (4) feet within twenty (20) feet of the front and side corner property lines, and limited to six (6) feet in height at all other areas of the property.~~

~~—— (c) The use of barbed wire is prohibited.~~

~~—— (16) Lighting. Buildings shall have no neon on their exterior; however, neon signs may be displayed inside windows provided they occupy no more than fifteen percent (15%) of the window where they are displayed.~~

~~§ 185.054 GC – GENERAL COMMERCIAL DISTRICT.~~

~~—— (A) Intent. The purpose of the General Commercial District shall be to locate and establish areas within the city which are uniquely suited for heavy commercial development. Such areas are to be developed in an intensive manner and are designed to provide opportunities for small businesses of a variety of types. The uses and development standards included in the district are intended to provide additional opportunities for businesses to locate within the city by providing a mix of service, warehousing, commercial, wholesaling, storage, and similar businesses and uses.~~

~~—— (B) Principal uses and structures. The following uses and structures are permitted:~~

~~—— (1) Professional offices (accounting, architecture, engineering, dentistry, medical, insurance, legal, real estate, financial services (non-banking) and similar uses).~~

~~—— (2) General offices (administrative, corporate, business and similar uses).~~

- ~~— (3) Personal services (beauty, barber, dry cleaning pick-up and similar uses).~~
- ~~— (4) Business services (graphic design, interior design, advertising, photography, printing, employment services, telemarketing, business schools and similar uses).~~
- ~~— (5) Financial institutions (banks, credit unions and savings and loans).~~
- ~~— (6) Retail sales and service (clothing, jewelry, luggage, shoes, electronics, sporting goods, books, gift shops, florists, photographic supplies, art dealers, tobacco products, grocery stores, drug stores, cosmetic and beauty supply, optical, specialty food and similar uses).~~
- ~~— (7) Veterinarians and veterinary clinics.~~
- ~~— (8) Schools licensed by the state of Florida.~~
- ~~— (9) Day care centers licensed by the state of Florida.~~
- ~~— (10) Public uses (any federal, state, county, municipal, special district or similar use).~~
- ~~— (11) Funeral homes.~~
- ~~— (12) Eating establishments (restaurants, coffee shops, pastry shops, ice cream parlors, cafeterias, snack shops and similar uses).~~
- ~~— (13) Major retail sales, rental and service (building supply, major appliances, furniture, paint, hardware, lawn and garden supplies, consumer goods rentals and similar uses).~~
- ~~— (14) Plant nurseries and greenhouses.~~
- ~~— (15) Public utility facilities.~~
- ~~— (16) Clubs, lodges and fraternal organizations.~~
- ~~— (17) Building services (pest control, carpet cleaning, janitorial, water treatment, vending and similar uses).~~
- ~~— (18) Contractors' offices (plumbers, electricians, carpenters, masons, roofers, builders, cabinet makers, fence installers, gutter and siding installers, flooring and tile installers, drywall installers, painters, heating and air conditioning installers, glass repair and replacement and similar uses).~~
- ~~— (19) Wholesale trade, warehousing and storage.~~
- ~~— (20) Towing services with associated storage.~~

- ~~—(21) Upholstery and furniture repair/refinishing.~~
- ~~—(22) Medical and dental manufacturing labs.~~
- ~~—(23) Welding and machine shops.~~
- ~~—(24) Technical and trade schools.~~
- ~~—(25) Retail automotive sales, rental and service (car, boat, recreation vehicle, ATV, and motorcycle sales and service including paint, body and upholstery shops).~~
- ~~—(26) Assembly of components manufactured off-site.~~
- ~~—(27) State licensed tattoo parlors.~~
- ~~—(28) Drinking establishments.~~
- ~~—(29) Indoor commercial recreation (excluding dance clubs). In buildings with multiple tenants, indoor commercial recreational uses may occupy up to five thousand (5,000) square feet of gross floor area, fitness centers and other indoor health, recreational, and similar facilities for exercise, sports, and other physical activities. Outdoor recreation uses must be related to the indoor recreation use and require a site plan approval.~~
- ~~—(C) Accessory uses and structures. Customary accessory uses of one (1) or more of the principal uses, clearly incidental and subordinate to the principal use, in keeping with the high intensity commercial nature of the district. All storage shall be within an enclosed structure or completely screened by an opaque fence or wall, of at least six (6) feet in height.~~
- ~~—(D) Conditional uses.~~
 - ~~—(1) Permitted uses located on a parcel of ten (10) or more acres of area.~~
 - ~~—(2) Commercial towers.~~
 - ~~—(3) Security dwelling unit, subject to the provisions established in § 185.088(I).~~
 - ~~—(4) Canine day care, and related services:~~
 - ~~—(a) There shall be no more than one (1) dog per thirty-five (35) square feet of the area within the facility that the dogs will be housed.~~
 - ~~—(b) The facility must have an outdoor area for exercise and bathroom relief. Said area shall be enclosed with a minimum six (6) foot tall fence.~~

~~—— (c) All kennels and housing areas shall be within an air-conditioned building. Outside kenneling will not be permitted.~~

~~—— (d) Fecal matter shall be disposed of on a daily basis.~~

~~—— (e) Dogs shall be indoors between the hours of 10:00 p.m. and 6:00 a.m.~~

~~—— (5) Dancing in eating and drinking establishments.~~

~~—— (6) Churches.~~

~~—— (7) Event halls, subject to the provisions established in § 185.088(J).~~

~~—— (8) Self-storage facilities subject to the provisions established in § 185.088(F).~~

~~—— (E) Prohibited uses and structures.~~

~~—— (1) All uses not specifically permitted herein.~~

~~—— (2) Pawn shops.~~

~~—— (3) Pain-management clinic.~~

~~—— (F) Lot and structure requirements.~~

~~—— (1) Minimum lot area – fifteen thousand (15,000) square feet.~~

~~—— (2) Minimum lot width – one hundred (100) feet.~~

~~—— (3) Minimum lot depth – one hundred fifty (150) feet.~~

~~—— (4) Maximum building coverage – fifty percent (50%).~~

~~—— (5) Minimum floor area – three hundred (300) square feet.~~

~~—— (6) Maximum height – forty (40) feet.~~

~~—— (7) Minimum yard requirements:~~

~~—— (a) Front: thirty (30) feet minimum building setback. Parking areas may be located in the front yard except within ten (10) feet on the front lot line.~~

~~—— (b) Side interior: ten (10) feet minimum building setback. Parking areas may be located in the side yard, except within five (5) feet of the side lot line.~~

~~—— (c) Side corner: twenty five (25) feet minimum building setback. Parking areas may be located in the side corner yard, except within ten (10) feet of any street.~~

~~—— (d) Rear: ten (10) feet minimum building and parking setback.~~

~~—(8) Shared access and parking areas.~~

~~—(a) No side interior building and parking area setbacks are required provided all of the following are met:~~

~~—1. Buildings on adjacent parcels, under separate ownership, are joined by a common wall;~~

~~—2. Parking areas and aisles are joined with adjacent parcel(s) under separate ownership;~~

~~—3. Curb cuts and driveways are shared in common parcels involved and a minimum spacing of one hundred (100) feet is maintained, or access is provided by an approved frontage road; and~~

~~—4. Easements and/or written assurances of cross access and a sharing of common facilities (stormwater system, solid waste container(s), lighting, landscaping, etc.), as may be applicable, from all property owners involved must be approved prior to the issuance of a building permit.~~

~~—(b) For adjacent developments meeting the requirements of divisions (F)(8)(a) 2. through 4. above, the total number of off-street parking spaces required for uses on all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenient access to all principal buildings.~~

~~—(9) Design requirements.~~

~~—(a) An Architectural Style for each structure is required. This shall include adherence to all standards contained in § 185.134.~~

~~§ 185.055 PLANNED COMMUNITY REDEVELOPMENT DISTRICT (PCRD).~~

~~—(A) Intent. The planned community redevelopment district is a concept which encourages and permits variation in mixed use developments by allowing deviation in lot size, bulk or type of dwellings, density, height, lot coverage and open space from that required in any classification under the zoning regulations of the city. The purpose is to encourage the development of planned communities that provide a broad range of residence types as well as commercial uses designed to serve the inhabitants of the development, the redevelopment district and the~~

~~city as a whole. It is recognized that only through ingenuity, imagination and flexibility can developments be produced which are in keeping with the intent of this subchapter, the Bayfront Redevelopment District Plan and the City of Palm Bay Comprehensive Plan, while departing from the strict application of the~~

~~conventional use and dimension requirements of other zoning districts and subdivision regulations.~~

~~—(B) Establishment of Planned Community Redevelopment Districts. These districts may be applied within the Bayfront Community Redevelopment District established by the city. Such districts must be established by amendment of the official zoning map and shall carry a zoning designation of PCR. The PCR District may be requested in any zoning category except BMUV, Bayfront Mixed Use Village District, LI, Light Industrial and Warehousing District and HI, Heavy Industrial District.~~

~~—(C) Required elements. Each individual Planned Community Redevelopment District must contain the following required elements:~~

~~—(1) A mix of commercial and residential uses subject to the land use criteria established in this section;~~

~~—(2) Architectural standards;~~

~~—(3) Signage standards;~~

~~—(4) Landscaping standards;~~

~~—(5) Streetscape, public open space, river view maintenance, public access and civic standards; and~~

~~—(6) Development standards consistent with the criteria established in this section, including but not limited to minimum overall site size, height, setbacks, parking, loading, individual lot sizes and other development criteria.~~

~~—(D) Commercial land use standards.~~

~~—(1) Commercial use(s) consisting of one (1) or more of the following: retail, office, restaurant, personal services (hair salons, tailors, spas and similar uses) hotels, motels and similar uses is required to be provided in each Planned Community Redevelopment District based on the following minimum square footage standards:~~

~~—(a) A minimum square footage equal to five percent (5%) of the land area for projects having an existing residential classification at the time of application submittal;~~

~~—(b) A minimum square footage equal to ten percent (10%) of the land area for projects having an existing institutional classification at the time of application submittal; and~~

~~—(c) A minimum square footage equal to fifteen percent (15%) of the land area for projects having an existing commercial or office classification at the time of application submittal.~~

~~—(2) A minimum of fifty percent (50%) of the required commercial square footage must be located within the same building(s) as the residential uses proposed for development. The balance of the required commercial square footage may be located in separate buildings from the planned residential.~~

~~—(3) When deemed appropriate by the City Council, up to forty percent (40%) of the required commercial square footage may be mitigated for through financial contributions made into a fund incorporated into the Bayfront Community Redevelopment Agency budget for promotion, development and enhancement of commercial development within the community redevelopment district. The amount of the contribution shall be determined by the City Council provided that a minimum of \$33.75 per square foot of commercial not constructed is deposited into the fund. The forty percent (40%) mitigation shall be deducted from the minimums established in both subsection (1) and (2) above.~~

~~—(E) Residential land use standards.~~

~~—(1) A minimum of one (1) residential unit shall be constructed for each two thousand (2,000) square feet of required commercial.~~

~~—(2) Residential units shall contain a minimum of one thousand two hundred (1,200) square feet of living area.~~

~~—(3) Maximum density shall be twenty (20) units per acre. Density may be increased one (1) unit per acre for every two thousand (2,000) square feet of additional commercial developed on the site up to a maximum density of thirty (30) units per acre.~~

~~—(F) Architectural standards.~~

~~—(1) Applicants shall provide detailed architectural drawings for all structures within the project. The architectural styles must be cohesive within the project and shall include adherence to the standards contained in § 185.134.~~

~~—(G) Landscaping standards.~~

~~—(1) Detailed landscape plans and standards must be submitted for review and approval by the City Council. Landscaping must be provided to enhance the project by providing buffering from roadways and adjacent properties, breaking up parking and paving within the site and complementing buildings on the site.~~

~~—(2) Any walls along the perimeter of the property shall be buffered from offsite view by landscaping. Such walls must be approved by City Council during the approval process.~~

~~—(H) Streetscape, public open space, river view maintenance, public access and civic standards.~~

~~—(1) Each project shall provide streetscaping, public open space, public access to the waterfront or other public/civic facilities as part of the development. These features shall be determined during the project approval process and may be met offsite if deemed appropriate by City Council.~~

~~—(2) Projects between Dixie Highway NE (U.S. #1) and the Indian River Lagoon shall maintain a minimum of thirty percent (30%) of the frontage open through use of breezeways, no-build visibility corridors or other means.~~

~~—(I) Development standards.~~

~~—(1) The minimum size property necessary shall total two and one half (2.5) acres.~~

~~—(2) The maximum height permitted shall not exceed forty (40) feet. Height may be increased two (2) feet for every one thousand (1,000) square feet of commercial square footage constructed above the minimum commercial square footage required by this section, up to a maximum height of seventy (70) feet.~~

~~—(3) Setbacks shall be determined during project review.~~

~~—(4) Parking and loading shall meet the regulations established in §§ 185.140, 185.141 and 185.142 of this Zoning Code. Deviations from these standards may be approved by City Council if deemed appropriate.~~

~~—(5) There is no minimum lot size established for subdivided properties. Lot sizes shall be provided by the developer and must receive approval by City Council.~~

~~—(6) Development standards shall be detailed in the applications support information provided by the developer during the approval process.~~

~~—(7) Fencing is permitted along the rear and side interior property lines at a maximum height of eight (8) feet. Fencing along river frontage shall comply with (H)(2) of this district and shall be limited to a height of four (4) feet.~~

~~—(J) Review process.~~

~~—(1) An application for a Planned Community Development District zoning shall consist of a Preliminary Application Approval process and a Final Application Approval process. Approval of the Preliminary PCR request shall be via Resolution. A PCR zoning classification is established when the Final Application is approved by City Council and shall be enacted by Ordinance. Both the preliminary and final applications must be submitted for review and action to the Bayfront Community Redevelopment Agency, the Planning and Zoning Board and City Council. All meetings must be public hearings.~~

~~—(K) Preliminary application submittal requirements.~~

~~—(1) A general plan for the use of all lands within the proposed PCRD. Such plans shall indicate the general location of residential areas (including density and unit types), open space, parks, passive or scenic areas, and non-residential areas (including maximum building square footage and maximum height).~~

~~—(2) A plan of vehicular and pedestrian circulation showing the general locations and right-of-way widths of roads, sidewalks, the capacity of the system and access points to the external and internal thoroughfare network.~~

~~—(3) Quantitative summary of land uses (maximum acres, maximum non-residential building square feet, maximum number of residential dwelling units, etc.). A report shall be submitted to the city that~~

~~includes a statement indicating how the proposed development complies with the comprehensive plan and a general description of the proposed development including:~~

~~—(a) The total acreage of the project.~~

~~—(b) The number of acres proposed to be developed in the various categories of land use shown on the concept plan; the percentage of total acreage represented by each category of use and each component of development; and an itemized list of uses proposed for each of the components which shall be the range of uses permitted for that section of the PCR.~~

~~—(c) The number and type of dwelling units proposed for the overall site and for its components, including dwelling unit per acre calculations and population projections for each and for non-residential projects, provide the gross square footage devoted for each land use.~~

~~—— (d) The establishment of minimum design standards which shall govern the site and development such as lot shape and size, internal streets and pedestrian ways, open space provisions, off-street parking, buffers and landscape areas.~~

~~—— (e) A site conditions map that includes:~~

~~—— 1. Legal description and boundary survey signed and sealed by a registered Florida land surveyor.~~

~~—— 2. Name of the PCR; owner, along with their address and phone number; surveyor and engineer of record; and date of drawing.~~

~~—— 3. Scale, date, north arrow, and general location map showing relationship of the site to external uses, structures, and features.~~

~~—— 4. Boundaries of the subject property, all existing streets, buildings, water courses, easements, section lines, and other important physical features.~~

~~—— 5. Existing topography (latest U.S. Department of the Interior Geological Survey) on the site and along all adjacent roadways.~~

~~—— 6. The location and size of all existing drainage facilities and a utility concept plan.~~

~~—— 7. The location and function of all other existing public facilities which would serve the residents of the site including but not limited to schools, parks, and fire stations.~~

~~—— 8. Graphic displays necessary to depict proposed buildings, landscaping, conformance with surrounding area in terms of height, bulk and style and other graphics necessary to adequately determine that the criteria in this section have been met.~~

~~—— (L) Final application submittal requirements.~~

~~—— (1) Engineering plans.~~

~~—— (a) Engineering plans showing:~~

~~—— 1. Existing ground surfaces and proposed elevations in the planned unit development.~~

~~—— 2. If deemed necessary by the Council, subsurface conditions on the tract, including the location and results of tests made to ascertain the conditions of subsurface soil, rock, and groundwater, and the existing depth of groundwater.~~

~~3. Typical cross-sections of proposed grading, streets and sidewalks, canals and waterways.~~

~~4. Proposed type of pavement in accordance with city specifications.~~

~~5. Layout of water distribution, sanitary sewers and storm drainage systems, with grades and sizes indicated.~~

~~6. Final engineering drawing of water, sanitary sewer and storm drainage systems and sidewalks, streets, bulkheads, street name signs and adequate lighting.~~

~~(b) The engineering plans shall be in conformity with the requirements and specifications of the city subdivision regulations set forth in Chapter 184 of this code of ordinances.~~

~~(2) Final development plan:~~

~~(a) A final development plan containing, in addition to those items specified in § 185.055(K), the following information:~~

~~1. Dedication by owner and completion of certificate of surveyor.~~

~~2. The location, dimensions and character of construction of all proposed streets, driveways, points of ingress and egress, loading areas, number of parking spaces and areas, primary residential areas and structures, secondary nonresidential areas and structures, recreational areas and structures, and common open space areas.~~

~~3. Proposed lot lines (if any), lot and block numbers and dimensions of all primary nonresidential uses, and common open space.~~

~~4. The proposed architectural and landscape design of all structures and common open space that clearly reflects the compatibility of the variety primary and secondary uses proposed.~~

~~5. Location and width of canals and waterways.~~

~~6. Reservations, easements, alleys and any areas to be dedicated to public uses or sites for other than residential use with notes stating their purpose and any limitations.~~

~~7. Sufficient data to determine readily and reproduce on the site the location, bearing and length of every street, line, lot line, boundary line and block line, whether curved or straight.~~

~~8. The radius, central angle, point of tangent, tangent distance and arcs and chords of all curved property lines.~~

~~9. A legal description of the project's boundaries with bearings, distances and tie point.~~

~~10. The final development shall meet the platting requirements of Fla. Stat. Ch. 177. In case of a large plan that may require two (2) or more sheets, the sheets are to be numbered and the numbers of the sheets are to be indicated on the first sheet below the title.~~

~~(3) Development schedule. The development schedule shall contain the following information:~~

~~(a) The order of construction of the proposed stages delineated in the development plan.~~

~~(b) The proposed date for the beginning of construction of such stages.~~

~~(c) The proposed date for the completion of construction on such stages.~~

~~(d) The proposed schedule for the construction and improvement of common open space within such stages, including any complementary buildings.~~

~~(4) Title opinion. A title opinion from an attorney showing the status of the title to the site encompassed by the final development plan and all liens, encumbrances and defects, if any.~~

~~(M) Procedure.~~

~~(1) A fee, following the latest fee resolution shall accompany the preliminary and final development plan application for the purpose of administration; additionally, engineering, plat filing, necessary copies and travel fees will be incurred.~~

~~(2) The Bayfront Community Redevelopment Agency shall review the final development plan for its consistency with the Bayfront Redevelopment District Plan.~~

~~(3) The Planning and Zoning Board shall recommend the approval, approval subject to conditions, or disapproval of the final development plan with the preliminary development plan, the sufficiency and accurateness of the required exhibits, and the requirements and purposes of this subchapter and any other applicable provision of this code of ordinances and any other regulation of the city.~~

~~The Planning and Zoning Board shall recommend the approval, approval subject to change, or denial of the final development plan.~~

~~—(4) The City Council shall review the recommendations of the Planning and Zoning Board at a public hearing of the City Council and shall approve, approve subject to conditions, or deny the final development plan application.~~

~~—(N) Recording of final development plan.~~

~~—(1) After approval by the City Council of the final development plan application, the City Clerk shall see that all requirements of Fla. Stat. Ch. 177 have been complied with before the final development plan is recorded in the public records of the county.~~

~~—(2) The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of a final development plan of a planned community redevelopment project, or portion thereof, that has not been given final approval by the City Council and recorded in the official records of the county is prohibited. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such prohibition.~~

~~§ 185.056 RAC - REGIONAL ACTIVITY CENTER DISTRICT.~~

~~—(A) Intent. The regional activity center (RAC) zoning district is a planned development intended to establish types of development and arrangements of land uses that are consistent with the comprehensive plan, but which are not otherwise provided for or allowed in the zoning districts set out in this chapter. The range of uses and development intensities allowed within a particular RAC district, along with any corresponding development and design standards are established by an associated RAC concept plan. Subsequent development within the RAC district is implemented by the approval of one or more site and development plans, known as RAC final development plans.~~

~~—The standards for creating a new RAC district and its associated concept plan set out herein are intended to promote flexibility of design and permit planned diversification and integration of uses and structures. The process set out herein allows the City Council to evaluate applications to establish new RAC districts and their associated concept plans, to make modifications to adopted concept plans, and to render final determination as to whether applications should be approved, approved with conditions, or denied. In addition, the City Council may, through approval with conditions, establish such additional limitations and regulations as~~

~~are deemed necessary to protect the public health, safety, and general welfare. Specifically, the RAC district is intended to:~~

- ~~—(1) Promote more efficient and economical uses of land.~~
- ~~—(2) Provide flexibility to meet changing needs, technologies, economics, and consumer preferences.~~
- ~~—(3) Encourage uses of land which reduce transportation needs and which conserve energy and natural resources to the maximum extent possible.~~
- ~~—(4) Preserve to the greatest extent possible, and utilize in a harmonious fashion, existing environmental features and amenities.~~
- ~~—(5) Provide for more usable and suitably located recreational facilities, open spaces and scenic areas, either commonly owned or publicly owned, than would otherwise be provided under a conventional zoning district.~~
- ~~—(6) Lower development and building costs by permitting smaller networks of utilities and streets and the use of more economical building types and shared facilities.~~
- ~~—(7) Permit the combining and coordinating of land uses, building types, and building relationships within a planned development, which otherwise would not be provided under a conventional zoning district.~~
- ~~—(B) Establishment of a new RAC district and adoption of an associated concept plan.~~

~~—(1) Eligibility for application. Applications for establishment of a new RAC zoning district shall demonstrate compliance with the following minimum eligibility criteria:~~

- ~~—(a) Minimum area for a RAC zoning district. The minimum area required for an application to a RAC district shall be five (5) acres, except where the proposed use is required to be approved as a planned development or regional activity center use by the comprehensive plan wherein, there shall be no minimum area required.~~
- ~~—(b) Configuration of the RAC zoning district. The RAC zoning district shall consist of a discrete area of land of sufficient width and depth to accommodate the proposed uses. Multiple parcels may be combined for purposes of establishing the RAC boundaries provided they are contiguous and under common ownership by the applicant(s). Separation by roadways, canals or similar dividers shall be considered contiguous for purposes of this section.~~

~~—— (c) Unified control/ownership. All properties included for the purpose of application to amend the official zoning map to create a RAC district shall be under the ownership or control of the applicant(s).~~

~~—— (2) Review process. The approval of a RAC zoning map amendment and associated concept plan application rests with the City Council. An application for a RAC zoning district shall include a concept plan; a RAC zoning district shall not be established unless and until an associated implementing RAC concept plan is approved by the City Council. Review of an application for a RAC zoning map amendment and associated concept plan shall be processed as follows:~~

~~—— (a) Pre-application conference. An application for a pre-application conference shall be submitted in accordance with established administrative policies and procedures.~~

~~—— (b) RAC concept plan application. A RAC concept plan application shall be submitted in accordance with the submittal requirements set forth in subsection (3).~~

~~—— (c) Planning and Zoning Board public hearing and recommendation. The Planning and Zoning Board shall conduct a public hearing on the RAC zoning map amendment and concept plan application and formulate findings supporting a recommendation to the City Council to approve, approve with conditions, or deny the application. The Board's recommendation shall be forwarded to the City Council for final action.~~

~~—— (d) City Council public hearing and disposition. The City Council shall conduct a public hearing on the RAC zoning map amendment and concept plan application. The Council's final action to approve, approve with conditions, or deny the application shall be based upon the recommendations of the Planning and Zoning Board, city staff, public testimony, and findings made at the public hearing. The decision of the City Council shall be final.~~

~~—— (e) Adoption of implementing ordinance. Council approval or approval with conditions for a RAC zoning map amendment and concept plan application shall be adopted into an implementing ordinance. The ordinance shall be adopted pursuant to state statutes and shall include a legal description of the property, a copy of the concept plan and any conditions placed on the approval by City Council.~~

~~—— (3) Application content and submittal requirements.~~

~~— (a) RAC concept plan. A RAC concept plan is a generalized plan that establishes the allowable land uses and the allowable development density or intensity ranges as well as any corresponding development and design standards for all lands within the RAC zoning district.~~

~~— The RAC concept plan shall consist of the graphic and/or textual information itemized in subsections 1. through 4. below.~~

~~— 1. A general plan for the use of all lands within the proposed RAC. Such plans shall indicate the general location of residential areas (including maximum density and unit types), open space, parks, passive or scenic areas, and nonresidential areas (including maximum building square footage or other intensity maximums).~~

~~— 2. A plan of vehicular and pedestrian circulation showing the general locations and right-of-way widths of roads, sidewalks, the capacity of the system and major access points to the external and internal thoroughfare network.~~

~~— 3. A summary of allowable development. The summary shall provide:~~

~~— a. The total acreage of the RAC district and each phase, as may be proposed;~~

~~— b. The acreage of areas proposed for specific land uses proposed to be allowed within the RAC district and phases proposed in the concept plan, as may be applicable;~~

~~— c. The acreage of open space or conservation areas within the RAC district and phases proposed in the concept plan;~~

~~— d. The minimum and maximum allowable residential density to be allowed within the RAC district and each phase proposed in the concept plan, measured in residential dwelling units per acre; and~~

~~— e. The minimum and maximum allowable nonresidential development intensity to be allowed within the RAC district and each phase, measured in gross building square footage or other appropriate intensity measure.~~

~~— 4. Generalized regulations and development standards for the RAC district and each phase, including:~~

~~— a. An itemized list of uses proposed to be allowed in the RAC district by phase.~~

~~_____ b. Development and design standards governing the development of the RAC district and each phase which shall, at a minimum, address: general lot dimensions and size; proposed dimensions of internal streets, sidewalks, and other transportation facilities (such standards may be conveyed through annotated diagrams); open space provisions perimeter buffering, and landscaping.~~

~~_____ c. The RAC concept plan may establish additional development and design standards for other development and design characteristics and elements so long as these standards are consistent with the comprehensive plan.~~

~~_____ d. The RAC concept plan shall also include additional items identified at the pre-application conference by city staff that, by their nature, are unique to the specific location of the project or development proposal.~~

~~_____ e. The RAC concept plan shall include a written analysis identifying consistency with the adopted comprehensive plan and how the proposed development is consistent with the intent of the RAC zoning category identified in Section (A).~~

~~_____ (b) Site condition map(s) and data that include:~~

~~_____ 1. A legal description of the properties included in the application with an associated boundary survey signed and sealed by a registered Florida land surveyor.~~

~~_____ 2. Name of the RAC; the owners of all properties included in the RAC district; the agent for the RAC application, and address and phone number of the agent; and, date of drawing and of any subsequent revision.~~

~~_____ 3. Scale, north arrow, and general location map showing relationship of the site to external uses, structures, and features.~~

~~_____ (c) An environmental assessment of the property identifying major environmental features of the site and endangered wildlife and vegetation.~~

~~_____ (d) A traffic study meeting generally accepted engineering practices examining the impact of the proposed development on the surrounding roadway network.~~

~~_____ (C) RAC final development plan. The RAC final development plan is a site and development plan consistent with and intended to implement a RAC concept plan. The final plan may pertain to an entire RAC district or one or more phases of the project. Final subdivision approval may be combined as part of the RAC final development plan.~~

~~— (1) Review process. The approval of a RAC final development plan rests with the City Council. An application for a RAC final development plan shall be processed as follows:~~

~~— (a) RAC final development plan application. A RAC final development plan application shall be submitted in accordance with the submittal requirements set forth in subsection (3).~~

~~— (b) Planning and Zoning Board public hearing and recommendation. The Planning and Zoning Board shall conduct a public hearing on the RAC final development plan application and formulate findings supporting a recommendation to the City Council to approve, approve with conditions, or deny the application. The Board's recommendation shall be forwarded to the City Council for final action.~~

~~— (c) City Council public hearing and disposition. The City Council shall conduct a public hearing on the RAC final development plan application. The Council's final action to approve, approve with conditions, or deny the application shall be based upon the recommendations of the Planning and Zoning Board, city staff, public testimony, and findings made at the public hearing. The decision of the City Council shall be final.~~

~~— (d) Adoption of implementing resolution. Council approval or approval with conditions for a RAC final development plan application shall be adopted into an implementing resolution. The resolution shall be adopted pursuant to state statutes and shall include a legal description of the property, a copy of the final development plan and any conditions placed on the approval by City Council.~~

~~— (2) Application content and submittal requirements.~~

~~— (a) RAC final development plan. A RAC final development plan is a detailed plan that establishes the specific locations and boundaries for all lots to be developed, rights-of-ways, public easements and provides detailed development standards for all properties within the phase being reviewed.~~

~~— The RAC final development plan shall consist of the graphic and/or textual information itemized in subsections 1. through 4. below.~~

~~— 1. A specific plan for the use of all lands within the proposed RAC phase. Such plans shall indicate the specific location and layout of residential areas (including maximum density and unit types), open space, parks, passive or scenic areas, and nonresidential areas (including maximum building square footage or other intensity maximums).~~

- ~~2. A plan of vehicular and pedestrian circulation showing the specific locations and right-of-way widths of roads, sidewalks, the capacity of the system and major access points to the external and internal thoroughfare network.~~
- ~~3. A summary of allowable development. The summary shall provide:~~
 - ~~a. The total acreage of the RAC district and the specific phase for which final development plan approval is being sought;~~
 - ~~b. The acreage of areas proposed for specific land uses proposed in the final development plan, as may be applicable;~~
 - ~~c. The acreage of open space or conservation areas within the specific phase proposed in the final development plan;~~
 - ~~d. The minimum and maximum allowable residential density to be allowed within the phase proposed, measured in residential dwelling units per acre; and~~
 - ~~e. The minimum and maximum allowable nonresidential development intensity to be allowed within the phase, measured in gross building square footage or other appropriate intensity measure.~~
- ~~4. Specific regulations and development standards applicable to the phase, including:~~
 - ~~a. An itemized list of uses proposed to be allowed in the phase.~~
 - ~~b. Development and design standards governing the development of the phase which shall, at a minimum, address: lot dimensions and size; dimensions of internal streets, sidewalks, and other transportation facilities (such standards may be conveyed through annotated diagrams); open space provisions, perimeter buffering, and landscaping. Specific architectural design standards shall be provided.~~
 - ~~c. The RAC final development plan may establish additional development and design standards for other development and design characteristics and elements so long as these standards are consistent with the comprehensive plan.~~
- ~~(b) Site condition map(s) and data that include:~~
 - ~~1. A legal description of the properties included in the application with an associated boundary survey signed and sealed by a registered Florida land surveyor.~~

~~2. Name of the RAC; the owners of all properties included in the RAC district; the agent for the RAC application, and address and phone number of the agent; and, date of drawing and of any subsequent revision.~~

~~3. Scale, north arrow, and general location map showing relationship of the site to external uses, structures, and features.~~

~~(c) An environmental assessment of the property identifying major environmental features of the site and endangered wildlife and vegetation and description of permitting in process or completed.~~

~~(d) A traffic study meeting generally accepted engineering practices examining the impact of the proposed development on the surrounding roadway network and the proposed improvements necessary to support the phase of development proposed in the final development plan.~~

~~(e) Specific plans and designs for the provision of potable water and sanitary sewer, electric power, gas and other public utilities and services, as applicable.~~

~~(f) Identification of planned maintenance responsibility for all aspects of the development. Specifically identify all facilities proposed for maintenance by the city or other governmental entities.~~

~~(g) Identification of all exceptions to city construction and design standards proposed for the development. Exceptions include, but are not limited to, modification of required street or roadway right-of-way and pavement requirements, signage, location of utilities, design of utilities and drainage facilities, easement widths and locations and modifications proposed to any public improvement.~~

~~(h) Proposed schedule for construction of all infrastructure and estimates of the buildout for the development phase proposed.~~

~~(i) Final construction plans are not required to, but may, be submitted as part of the final development plan application. The applicant shall, however, provide sufficient detail in plans and proposals to permit the Council to ascertain the feasibility of future construction including infrastructure demand and supply issues.~~

~~(D) Joint RAC concept and final development plan application. At the option of the applicant, a RAC concept plan may be reviewed simultaneously with a RAC final development plan. In addition, modifications to an approved RAC concept~~

~~plan may be made as part of the approval process for a RAC final development plan. All applicable requirements for both the concept plan and the final development plan submittal applications must be addressed.~~

~~—(E) Administrative process following final development plan approval. Physical development of the property must be consistent with the approved Concept plan and final development plan for the RAC. Administrative review and approval processes for subdivisions, site plans, building permits and other land development regulations shall ensure such consistency. Substantial changes, as determined by the Growth Management Director, shall require re-submittal for final development plan approval. Minor changes not deemed to be substantial may be approved administratively.~~

~~§ 185.057 PMU—PARKWAY MIXED USE DISTRICT.~~

~~—(A) Intent. The Parkway Mixed Use (PMU) zoning district is a Planned Development intended to establish types of development and arrangements of land uses that are consistent with the Comprehensive Plan, but which are not otherwise provided for or allowed in the zoning districts set out in this chapter. Subsequent development within the PMU district is implemented by the approval of one or more site and development plans, known as Final PMU Development Plans. The purpose of planned developments is to encourage the creation of designed neighborhoods and communities that provide a full range of residence types, as well as commercial uses that serve the inhabitants of the immediate community and surrounding neighborhoods.~~

~~—The standards for creating a new PMU district set out herein are intended to promote flexibility of design and diversification and integration of uses and structures. The process set out herein allows the City Council to evaluate applications to establish new PMU districts and to render final determination as to whether applications should be approved, approved with conditions, or denied. In addition, the City Council may establish such additional limitations and regulations as are deemed necessary to protect the public health, safety, and general welfare. Specifically, the PMU district is intended to:~~

~~—(1) Promote more efficient and economical uses of land.~~

~~—(2) Provide flexibility to meet changing needs, technologies, economics, and consumer preferences.~~

~~—(3) Encourage uses of land which reduce transportation needs and which conserve energy and natural resources to the maximum extent possible.~~

~~—(4) Preserve to the greatest extent possible, and utilize in a harmonious fashion, existing environmental features and amenities; with an emphasis on preserving existing exceptional specimen trees, to be incorporated into the development.~~

~~—(5) Lower development and building costs by permitting smaller networks of utilities and streets and the use of more economical building types and shared facilities.~~

~~—(6) Simplification of the procedure for obtaining approval of proposed developments through the combining and coordinating of land uses, building types, and building relationships within a planned~~

~~development, which otherwise would not be provided under a conventional zoning district.~~

~~—(B) Establishment of a new PMU district.~~

~~—(1) Eligibility for application. Applications for establishment of a new PMU zoning district shall demonstrate compliance with the following minimum eligibility criteria:~~

~~—(a) Minimum area for a PMU zoning district. The minimum area required for an application to a PMU district shall be twenty (20) acres and there shall be a minimum of forty (40) square feet of commercial space provided for each residential unit proposed within the PMU.~~

~~—(b) Maximum density. The maximum overall residential density within a PMU district shall be ten (10) dwelling units per acre.~~

~~—(c) Commercial uses. Permitted uses are retail (free-standing or combined in a plaza); personal service establishments, daycare centers, church/religious uses, restaurants, financial institutions, office uses, service stations with fuel sales, food service, theaters, professional office uses, medical and/or veterinary clinics and other uses approved by City Council during the development approval process.~~

~~—(d) Configuration of the PMU zoning district. The PMU zoning district shall consist of a discrete area of land of sufficient size to accommodate the proposed uses. Multiple parcels may be combined for purposes of establishing the PMU boundaries provided they are contiguous and under common ownership by the applicant(s). Separation by roadways, canals or similar dividers shall be considered contiguous for purposes of this section.~~

~~—— (e) Unified control/ownership. All properties included for the purpose of application to amend the official zoning map to create a PMU district shall be under the ownership or control of the applicant(s).~~

~~—— (2) Review process. The approval of a PMU zoning map amendment and associated application rests with the City Council. An application for a PMU zoning district shall include a Preliminary Design Plan (PDP); a PMU zoning district shall not be established unless and until an associated PDP is approved by the City Council. Review of an application for a PMU zoning map amendment and associated concept plan shall be processed as follows:~~

~~—— (a) Preliminary design plan (PDP) application. A PDP application shall be submitted in accordance with the submittal requirements set forth in subsection (3).~~

~~—— (b) Planning and Zoning Board public hearing and recommendation. The Planning and Zoning Board shall conduct a public hearing on the PMU zoning map amendment and PDP and formulate findings supporting a recommendation to the City Council to approve, approve with conditions, or deny the application. The Board's recommendation shall be forwarded to the City Council for final action.~~

~~—— (c) City Council public hearing and disposition. The City Council shall conduct a public hearing on the PMU zoning map amendment and PDP application. The Council's final action to approve, approve with conditions, or deny the application shall be based upon the recommendations of the Planning and Zoning Board, city staff, public testimony, and findings made at the public hearing. The decision of the City Council shall be final.~~

~~—— (d) Adoption of implementing ordinance. City Council approval or approval with conditions for a PMU zoning map amendment and PDP application shall be adopted into an implementing ordinance. The ordinance shall be adopted pursuant to state statutes and shall include a legal description of the property, a copy of the PDP layout and any conditions placed on the approval by City Council.~~

~~—— (3) Application content and submittal requirements.~~

~~—— (a) Preliminary design plan (PDP). A PDP is a generalized plan that establishes the allowable land uses and the allowable development density or intensity ranges as well as any~~

~~corresponding development and design standards for all lands within the PMU zoning district.~~

~~_____ The PDP shall consist of the graphic and/or textual information itemized in subsections 1 through 4 below.~~

~~_____ 1. A general plan for the use of all lands within the proposed PMU. Such plans shall indicate the general location of residential areas (including maximum density and unit types), open space, parks, passive or scenic areas, and nonresidential areas (including maximum building square footage or other intensity maximums).~~

~~_____ 2. A plan of vehicular and pedestrian circulation showing the general locations and right-of-way widths of roads, sidewalks, the capacity of the system and major access points to the external and internal thoroughfare network.~~

~~_____ 3. A summary of allowable development. The summary shall provide:~~

~~_____ a. The total acreage of the PMU district and each phase, as may be proposed;~~

~~_____ b. The acreage of areas proposed for specific land uses to be allowed within the PMU district and phases proposed in the concept plan, as may be applicable;~~

~~_____ c. The acreage of open space or conservation areas within the PMU district and phases proposed in the concept plan;~~

~~_____ d. The minimum and maximum allowable residential density to be allowed within the PMU district and each phase proposed in the concept plan, measured in residential dwelling units per acre; and~~

~~_____ e. The minimum and maximum allowable nonresidential development intensity to be allowed within the PMU district and each phase, measured in gross building square footage or other appropriate intensity measure.~~

~~_____ (b) Site condition map(s) and data that include:~~

~~_____ 1. A legal description of the properties included in the application with an associated boundary survey signed and sealed by a registered Florida land surveyor.~~

~~_____ 2. Name of the PMU; the owners of all properties included in the PMU district; the agent for the PMU application, and address and phone number of the agent; and, date of drawing and of any subsequent revision.~~

~~_____ 3. Scale, north arrow, and general location map showing relationship of the site to external uses, structures, and features.~~

~~—— (c) An Environmental Assessment of the property identifying major environmental features of the site and endangered wildlife and vegetation.~~

~~—— (C) Final development plan. The PMU Final Development Plan is a site and development plan consistent with and intended to implement a PMU preliminary development plan. The final plan may pertain to an entire PMU district or one or more phases of the project. Final subdivision approval may be combined as part of the PMU Final Development Plan.~~

~~—— (1) Review process. The approval of a PMU Final Development Plan rests with the City Council. An application for a Final Development Plan shall be processed as follows:~~

~~—— (a) Final design plan (FDP) application. An FDP application shall be submitted in accordance with the submittal requirements set forth in subsection (2).~~

~~—— (b) Planning and Zoning Board public hearing and recommendation. The Planning and Zoning Board shall conduct a public hearing on the PMU zoning map amendment and FDP and formulate findings supporting a recommendation to the City Council to approve, approve with conditions, or deny the application. The Board's recommendation shall be forwarded to the City Council for final action.~~

~~—— (c) City Council public hearing and disposition. The City Council shall conduct a public hearing on the PMU zoning map amendment and FDP application. The Council's final action to approve, approve with conditions, or deny the application shall be based upon the recommendations of the Planning and Zoning Board, city staff, public testimony, and findings made at the public hearing. The decision of the City Council shall be final.~~

~~—— (d) Adoption of implementing ordinance. City Council approval or approval with conditions for a PMU zoning map amendment and FDP application shall be adopted into an implementing ordinance. The ordinance shall be adopted pursuant to state statutes and shall include a legal description of the property, a copy of the FDP layout and any conditions placed on the approval by City Council.~~

~~—— (2) Required exhibits.~~

~~—— (a) If the applicant intends to subdivide land as part of their application of the PMU district then they shall meet the requirements of Chapter 184, Subdivisions.~~

~~—(b) A schematic layout of the proposed development shall be submitted on which structures shall be located in relation to each other and to major entrances into and off the site; internal circulation ways; parking and service areas; and landscaped areas. The site plan and supporting data shall also show proposed standards for development, including restrictions of the use of property; plans for the provision of utilities, including water, sewer and drainage facilities; and plans for protection of abutting properties.~~

~~—(c) Identification of planned maintenance responsibility for all aspects of the development. Specifically identify all facilities proposed for maintenance by the City or other governmental entities.~~

~~—(d) Declaration of covenants and restrictions shall be submitted for individual subdivisions and commercial areas that govern such items as accessory uses, architectural requirements (if any), and other items not covered by the PMU zoning standards.~~

~~—(e) A Traffic Study meeting generally accepted engineering practices examining the impact of the proposed development on the surrounding roadway network.~~

~~—(D) Joint preliminary development and final development plan application. At the option of the applicant, a Preliminary Development Plan (PDP) may be reviewed simultaneously with a Final Development Plan (FDP). In addition, modifications to an approved PDP may be made as part of the approval process for an FDP. All applicable requirements for both the PDP and the FDP submittal applications must be addressed.~~

~~—(E) Administrative process following final development plan approval. Physical development of the property must be consistent with the approved Preliminary Development Plan and the Final Development Plan for the PMU project. Administrative review and approval processes for subdivisions, site plans, building permits and other land development regulations shall ensure such consistency. Substantial changes, as determined by the Growth Management Director, shall require re-submittal for Final Development Plan approval. Minor changes not deemed to be substantial may be approved administratively.~~

~~—(F) Development standards. Standards for development shall be provided by the applicant at the time of submittal for a Preliminary Development Plan. These standards shall include such items as minimum lot sizes; minimum lot widths and depths; minimum yard areas (setbacks) for all types of uses; minimum living areas;~~

~~minimum building areas (if applicable); maximum height of structures; and such other items as will be needed to facilitate construction of the proposed community.~~

~~—(G) Signage. Standards for signs shall be provided by the applicant at the time of submittal for a Preliminary Development Plan. These standards shall address allowable sign locations; size; height; maximum number of signs permitted; lighting and landscaping requirements; etc.~~

~~—(H) Landscaping and tree preservation. Standards for landscaping shall be provided by the applicant at the time of submittal for a Preliminary Development Plan. These standards shall address the number of trees, shrubs and other plantings for both residential and nonresidential uses. A project developing under the PMU zoning category must follow the requirements for tree preservation and mitigation found in Chapter 180, of the Palm Bay Code of Ordinances.~~

~~—(I) Walls and fences. Standards for walls and fences shall be provided by the applicant at the time of submittal for a Preliminary Development Plan. These standards shall address the size, type and placement of walls and fences. Careful consideration shall be given to the site visibility of the motoring public, while protecting the rights and property values of the property owners of the PMU community.~~

~~§ 185.058 BMU—BAYFRONT MIXED USE DISTRICT.~~

~~—(A) Intent. The purpose of the Bayfront Mixed Use (BMU) district is to provide areas within the Bayfront Redevelopment District for an attractive and functional mix of high density residential with a low intensity of commercial land uses that are linked by a network of walkways. The ratio of residential to commercial shall have a minimum of 20% commercial uses, based upon Floor Area Ratio (FAR) or the gross floor area of the first floor (footprint) of all principal use buildings.~~

~~—(B) Principal uses and structures.~~

~~—(1) Multiple family dwellings provided that in no case shall there be more than forty (40) dwelling units per gross residential acre.~~

~~—(2) Professional offices such as accounting, architecture, engineering, dentistry, medical, insurance, real estate, financial services, title companies and similar uses.~~

~~—(3) General offices such as administrative, corporate, business, and similar uses.~~

- ~~—(4) Personal service such as beauty, barbers, dry cleaning pick-up, tailoring and similar uses.~~
- ~~—(5) Business service such as graphic design, interior design, advertising, photography, printing, employment services, telemarketing, business schools, and similar uses.~~
- ~~—(6) Financial institutions (banks, credit unions, and savings and loan).~~
- ~~—(7) Retail sales and service (clothing, jewelry, luggage, shoes, electronics, sporting goods, gift shops, florists, photographic supplies, art dealers, antique shops/dealers, tobacco products, grocery stores, convenience stores, drug stores, cosmetic and beauty supply optical specialty food, and similar uses).~~
- ~~—(8) Public uses (any federal, state, county, municipal, special district, or similar use).~~
- ~~—(9) Eating establishments, including dancing in eating establishments. (restaurants, coffee shops, pastry shops, ice cream parlors, cafeterias, snack shops, and similar uses).~~
- ~~—(10) Retail bakeries.~~
- ~~—(11) Clubs, lodges, and fraternal organizations.~~
- ~~—(12) Nursing homes and adult congregate living facilities.~~
- ~~—(13) Hotel, motel, and bed and breakfast inns.~~
- ~~—(14) Public and private parking lots.~~
- ~~—(15) Brew pubs and/or other drinking establishments.~~
- ~~—(C) Accessory uses and structures. Customary accessory uses of one or more of the principal uses, clearly incidental and subordinate to the principal use, in keeping with the objectives of a mixed use environment. All storage shall be in an enclosed structure unless clearly provided for herein.~~
- ~~—(D) Conditional uses.~~
 - ~~—(1) Public utility facilities.~~
 - ~~—(2) Marinas with boat sales and rentals.~~
 - ~~—(3) Public and private schools.~~
- ~~—(E) Prohibited uses and structures.~~
 - ~~—(1) All uses not specifically permitted herein.~~

- ~~—(2) Retail automotive fuel sales.~~
- ~~—(3) Pawn shops.~~
- ~~—(4) Tattoo parlors and body piercing establishments.~~
- ~~—(5) Contractors' offices with outside storage (plumbers, electricians, carpenters, masons, roofers, builders, cabinet makers, fence installers, gutter and siding installers, flooring and tile installers, drywall installers, painters, heating and air conditioning installers, glass repair and replacement, and similar uses).~~
- ~~—(6) Adult entertainment.~~
- ~~—(7) Fire works sales.~~
- ~~—(8) Commercial towers.~~
- ~~—(9) Automotive/vehicle repair and auto body repair, painting, and storage of junk vehicles.~~
- ~~—(10) Vehicle/automotive sales/lease.~~
- ~~—(11) Palm readers/fortunetellers and similar uses.~~
- ~~—(12) Flea markets and auction houses and similar uses.~~
- ~~—(13) Soup kitchens/homeless shelters.~~
- ~~—(14) Pain-management clinic.~~
- ~~—(15) Secondhand Dealer.~~
- ~~—(16) Warehousing and/or self-storage facilities.~~
- ~~—(F) Lot and structure requirements.~~
 - ~~—(1) Minimum lot area – 1 acre.~~
 - ~~—(2) Minimum lot width – forty (40) feet.~~
 - ~~—(3) Minimum lot depth – one hundred twenty (120) feet.~~
 - ~~—(4) Maximum building coverage – sixty percent (60%).~~
 - ~~—(5) Maximum height – sixty (60) feet. Additional building height may be permitted, subject to the following provisions:~~
 - ~~—(a) Providing public a space or public amenity totaling ten percent (10%) of the site, entitles an additional 10 feet in height.~~

- ~~—— (b) Providing understory parking to reduce required surface parking, entitles an additional 10 feet in height.~~
- ~~—— (c) Providing public access to the waterway through public boat slips, or public boat launch, or public transitional slips, entitles an additional 10 feet in height.~~
- ~~—— (d) Provide a mixture of uses, such as restaurant with residential uses above, entitles an additional 10 feet in height.~~
- ~~—— (e) Providing shared storm water or shared parking with neighboring properties, entitles an additional 10 feet in height. Upon approval by the city, the shared amenity shall be recorded as an easement or agreement, in the public records of Brevard County.~~
- ~~—— (6) Minimum floor area (commercial) – three hundred (300) square feet.~~
- ~~—— (7) Minimum living area for multifamily units: None.~~
- ~~—— (8) Yard requirements:~~
 - ~~—— (a) Front: zero (0) foot minimum.~~
 - ~~—— (b) Side interior: five (5) feet minimum, twenty-five (25) foot minimum when the property is adjacent to single-family development not separated by waterway, railroad, or street.~~
 - ~~—— (c) Side corner: zero (0) foot minimum.~~
 - ~~—— (d) Rear: twenty (20) feet minimum; ten (10) minimum feet when abutting a right-of-way or alley.~~
 - ~~—— (e) Accessory structures: minimum twenty (20) foot front and side corner, same side and rear as listed in divisions (b) and (d) above.~~
 - ~~—— (f) For buildings sixty (60) feet in height, or greater, the building(s) shall be setback a minimum of half the height of the building from the rear and side interior property lines when the property is adjacent to single-family development not separated by waterway, railroad, or street.~~
 - ~~—— (g) For buildings taller than sixty (60) feet; the building shall be stepped-back a minimum of twenty (20) feet beyond the forty (40) foot height measurement when the property is adjacent to single-family development not separated by waterway, railroad, or street. This is intended to create a terrace effect that helps provide light and air for the adjacent single-family dwellings. The stepped back portion can be used for recreational purposes such as gardening or outdoor dining.~~

~~—(9) Shared access and parking areas:~~

~~—(a) Off-street parking for non-residential uses shall be behind or to the side of the nonresidential building with a minimum of five (5) foot setback from a right-of-way line.~~

~~—(b) On-street parking spaces along any property line shall be counted toward the minimum number of parking spaces required for that use on that lot, except where there are driveway curb cuts.~~

~~—(c) No side interior building and parking area setbacks are required for nonresidential buildings provided all of the following are met:~~

~~—1. Buildings on adjacent parcels, under separate ownership, are joint by a common wall.~~

~~—2. Parking areas and aisles are joined and shared in common with adjacent parcel(s) under separate ownership.~~

~~—3. Curb cuts and driveways on principal roadways (collector and arterial streets) are shared in common for the parcels involved and a minimum spacing of one hundred fifty (150) feet is maintained, or access is provided by an approved frontage road.~~

~~—4. Easements and/or written assurances of shared and common facilities from all property owners involved must be approved by the city and recorded in public records of Brevard County prior to the issuance of a building permit.~~

~~—(d) For adjacent developments meeting the requirements of divisions 2 through 4 above, the total number of off-street parking spaces required for uses on all parcels involved may be reduced by ten percent (10%) where the location of shared parking areas provides convenient access to all principal buildings.~~

~~—(e) For developments adjacent to public parking the total number of off-street parking spaces required for uses on the parcel involved may be reduced by ten percent (10%) where the location of public parking areas provides convenient access to the principal buildings. On street public parking may not be considered for reduction eligibility.~~

~~—(10) Design requirements:~~

~~—(a) The Architectural Style for each structure shall adhere to 185.134 ARCHITECTURAL STYLE REQUIREMENTS (B)(1), (2), (3), (4), or (5).~~

~~—— (b) Structures in the following use category are exempt from the design review requirements of this subsection: public utility equipment and churches.~~

~~—— (c) The city sign code (Chapter 178) shall be adhered to with the following additional requirements:~~

~~—— 1. Materials: The color, construction, and material of each sign shall be compatible with the architecture on the site.~~

~~—— 2. Design: Every sign frame or support shall be designed as a sympathetic architectural element of the building(s) to which it is principally related.~~

~~—— 3. Free standing signs shall have landscaping at the base.~~

~~—— (d) Structures having a federal or state historic site status shall be exempt from this subsection.~~

~~—— (e) Garages for single-, or two-family residential structures and uses shall not be located closer to the front or side corner lot line than the foremost facade of the principal building, i.e., "snout houses" are not permitted.~~

~~—— (f) Other than for entrances and exits, parking structures shall be screened from view on ground level by landscaping or active commercial or residential uses, to the greatest extent possible, on any side that faces a public street or right-of-way.~~

~~—— (g) The City Council may, by resolution, adopt such administrative policies, manuals and/or fees as necessary to implement the design requirements identified above.~~

~~—— (11) Signs. Maximum height for any detached sign shall be ten (10) feet. All other criteria of the Sign Code shall be met.~~

~~—— (12) Landscaping. Properties within the Bayfront Mixed Use district are exempt from the development standards of § 185.142(B)(1), (2) and (4), Off-Street Parking Area Landscape Requirements, however properties within the district shall meet all the other requirements of § 185.142 in addition to the following landscape development standards:~~

~~—— (a) One (1) tree per every forty (40) feet of the property frontage shall be planted between the right-of-way line and the front or side corner building line for all properties.~~

~~—— (b) Any off-street parking space or parking lot in the Bayfront Mixed Use District that abuts a street right-of-way shall be buffered from the right-of-way by a~~

~~landscape area of no less than five (5) feet of width in which is located a continuous row of shrubs no less than two (2) feet in height.~~

~~— (c) In addition, where off-street parking is required for multiple family residential and nonresidential uses, such parking shall meet the interior parking area landscape requirements of § 185.142(3) of the code.~~

~~— (13) Sidewalks. Sidewalks shall be provided to create a pedestrian access to the proposed project and to adjacent properties. All sidewalks shall:~~

~~— (a) Be constructed of concrete with a raised curb separating the sidewalk from on-street parking.~~

~~— (b) Be a minimum of five (5) feet in width.~~

~~— (c) Comply with city engineering design standards.~~

~~— (14) Fence/walls. The construction, erection, and maintenance of walls and fences shall be permitted per the city's fence code (§§ 170.110 through 170.122) with the following exceptions and additions:~~

~~— (a) Chain link fence cannot be placed within twenty (20) feet of the front or side corner property lines.~~

~~— (b) Fence and wall height shall be limited to four (4) feet within twenty (20) feet of the front and side corner property lines, and limited to six (6) feet in height at all other areas of the property.~~

~~— (c) The use of barbed wire is prohibited.~~

~~— (15) Lighting. Buildings shall have no neon on their exterior; however, neon signs may be displayed inside windows provided they occupy no more than fifteen percent (15%) of the window where they are displayed.~~

~~§ 185.059 PCD – PLANNED COMMERCIAL DEVELOPMENT DISTRICT.~~

~~— (A) Intent. The purpose of the planned commercial development district shall be to locate and establish areas within the city which are deemed to be uniquely suited for the management and development of strategically designed commercial projects. These shared commercial developments shall have frontage upon an arterial roadway, as established in the Palm Bay Comprehensive Plan. The minimum size necessary for a PCD is five (5) acres. The application of the PCD district shall be approved by City Council and shall adhere to the design requirements contained herein.~~

~~—(B) Principal uses and structures. The following uses and structures are permitted:~~

~~—(1) Retail stores, sales and display rooms, including places in which goods are produced and sold at retail on premises.~~

~~—(2) Personal services establishments such as barber and beauty shops, fitness salons, laundry and dry cleaning establishments using noninflammable solvents as determined by the Fire Chief, tailor shops and similar uses.~~

~~—(3) Professional offices, studios, clinics, general offices, business schools and similar uses, including veterinarian clinics provided all activities are within the principal structure and there is no boarding of animals.~~

~~—(4) Hotels, motels, tourist courts.~~

~~—(a) The minimum living area per hotel/motel efficiency unit shall be two hundred and eighty (280) square feet.~~

~~—(b) There shall be no more than fifty (50) rental units per acre.~~

~~—(5) Eating and drinking establishments including drive-through facilities.~~

~~—(6) Indoor commercial recreation such as theaters, driving ranges, bowling alleys and similar uses, excluding dance clubs.~~

~~—(7) Banks and financial institutions with drive-through facilities.~~

~~—(8) Retail stores using outside display areas including plant nurseries, and building supplies providing the following provisions are met:~~

~~—(a) The outside display area may be open along the front of the lot but shall be effectively screened with a six (6) foot opaque wall or fence rendering the sides and rear opaque in order to avoid any deleterious effect on adjacent properties.~~

~~—(b) The outside display area shall be considered the same as the floor area for the purpose of calculating off-street parking requirements, yard and lot coverage regulations.~~

~~—(c) All outside display items with the exception of new and/or used vehicles for sale shall meet a twenty (20) foot front and side setback and a thirty (30) foot rear setback. New and used vehicles for sale or rent shall meet the parking setback requirements established in division (E)(7) below.~~

~~—(d) The sale of sheds or other accessory buildings is prohibited within the Bayfront Community Redevelopment District east of the Florida East Coast Railroad.~~

~~—(9) Public and private clubs and lodges including golf courses and similar activities.~~

~~—(10) New and used motor vehicles, major recreational equipment and mobile home sales and rentals with accessory uses; subject to the following restrictions:~~

~~—(a) All outside areas where merchandise is displayed shall be paved.~~

~~—(b) All servicing and repair facilities, except for gasoline pumps, shall be located in an enclosed structure.~~

~~—(c) There shall be no storage of junked or wrecked automobiles other than temporary storage for those awaiting repair. Such temporary storage shall be in an enclosed area and the vehicles shall not be visible from outside the property. All vehicles shall have attached at all times a current vehicle registration license plate.~~

~~—(11) Public utility equipment and facilities not located within a public utility easement.~~

~~—(12) Hospitals and nursing homes.~~

~~—(13) Schools, churches, and libraries.~~

~~—(14) Day care centers.~~

~~—(15) Business service establishments.~~

~~—(16) Public uses.~~

~~—(C) Accessory uses and structures. Customary accessory uses of one (1) or more of the principal uses clearly subordinate to the principal use, in keeping with the intense commercial character of the district.~~

~~—(D) Conditional uses.~~

~~—(1) Retail automotive gas/fuel sales:~~

~~—(a) Location of facilities. Gasoline/fuel pumps, storage tanks and other service island equipment shall be at least forty (40) feet from all property lines, fifteen (15) feet from any building, and one hundred (100) feet from the nearest residentially zoned land. No gasoline/fuel pump, storage tank or other equipment shall be located closer than one thousand (1,000) feet from any municipal or public supply well.~~

- ~~—— (b) Tank storage: Underground storage required for all receptacles for combustible materials in excess of two hundred (200) gallons.~~
- ~~—— (c) The proposed use will not constitute a nuisance or hazard because of vehicular traffic movement, delivery of fuel movement, noise or fume generation.~~
- ~~—— (d) Signs, if any, and proposed exterior lighting will be so designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility or disharmony with adjoining properties.~~
- ~~—— (e) Development and operation of the fuel pumps and attendant storage tanks shall be in compliance with §§ 176.01 et seq.~~
- ~~—— (2) Commercial radio and television broadcasting.~~
- ~~—— (3) Marinas.~~
- ~~—— (4) Car washes.~~
- ~~—— (5) Self storage facilities subject to the provisions established in § 185.088(F).~~
- ~~—— (6) Communication towers and facilities.~~
- ~~—— (7) Eating and drinking establishments that allow patrons to dance to music, subject to the provisions set forth in § 185.088(H).~~
- ~~—— (8) Indoor dance clubs, outdoor recreation, and outdoor amusement such as amusement parks, driving ranges, batting cages, go-cart tracks, outdoor skating facilities, miniature golf courses and similar uses.~~
- ~~—— (9) Regional transportation centers.~~
- ~~—— (E) Setbacks. The setback required from the nearest part of any wall to the perimeter of the project shall be included in the development plan and approved by City Council.~~
- ~~—— (F) A six (6) foot high completely opaque masonry wall or wood fence shall be provided along the entire length of any side or rear property line abutting property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this zoning code.~~
- ~~—— (G) Design requirements.~~
- ~~—— (1) An Architectural Style for each structure is required. This shall include adherence to all standards contained in § 185.134.~~
- ~~—— (2) Development of a commercial use or group of commercial uses intended to be developed according to a carefully drawn plan, may be permitted after~~

~~obtaining the proper site plan and building permit approvals. This coordinated project shall:~~

~~—— (a) Encourage timely and logical development of commercial facilities which would be constructed as a unit; and~~

~~—— (b) Discourage development of commercial parcels of size where uncoordinated development would likely result in less efficient use of the land and of service to the community and its residents; and to assure suitable design and other criteria which would protect both the commercial environment and surrounding properties.~~

~~—— (3) The maximum height of any structure shall not exceed one hundred (100) feet.~~

~~—— (H) In order to approve the project, the following conditions must be met:~~

~~—— (1) Ownership. The site proposed shall be under single ownership or if in several ownerships, a letter of authorization for the project to proceed towards obtaining city approval shall be filed by all owners of the properties included in the plan.~~

~~—— (2) Street frontage. The site proposed shall have a minimum width of two hundred (200) feet along a major street frontage.~~

~~—— (3) Access limitations. The minimum distance between access points shall be at least one hundred and fifty (150) feet, and the minimum distance between any one (1) location and an intersection of two (2) or more streets rights of way shall be one hundred (100) feet. The width of driveways and curb cuts, measured at the right-of-way line, shall provide for at least twelve (12) feet per traffic lane and shall conform to the following requirements:~~

~~—— Minimum Maximum~~

~~One-way traffic lane — 15 feet — 24 feet~~

~~Two-way traffic lanes — 24 feet — 30 feet~~

~~Three-way traffic lanes — 36 feet — 45 feet~~

~~Four-way traffic lanes — 50 feet — 56 feet~~

~~—— (4) Driveways having three (3) traffic lanes or more shall provide a raised median between entrance and exit lanes at the right-of-way line.~~

~~—(5) Tree regulations. Full compliance with the city tree regulations set forth in this chapter, in Chapter 180 and in any other applicable ordinance of the city must be assured.~~

~~—(I) The development standards of this district may be waived by the City Council, upon the recommendation of the Planning and Zoning Board.~~

~~PLANNED UNIT DEVELOPMENT (PUD)~~

~~§ 185.060 DEFINITIONS.~~

~~—For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—COMMON OPEN SPACE. A parcel or parcels of land, or a combination of land and water within the site designated as a planned unit development, and designed and intended for the use or enjoyment of residents of the planned unit development. All common open space shall be improved to the extent necessary to compliment the residential uses and may contain compatible and complimentary structures for the benefit and enjoyment of the residents of the planned unit development.~~

~~—DEVELOPER. Any person, firm, association, syndicate, partnership or corporation, who owns land which is developed into a planned unit development and who is actually involved in the construction and creation of a planned unit development.~~

~~—DEVELOPMENT PLAN. The total site plan of a planned unit development drawn in conformity with the requirements of this subchapter. The development plan shall specify and clearly illustrate the location, relationship, design, nature, and character of all primary and secondary uses, public and private easements, structures, parking areas, public and private roads and common open space.~~

~~—DEVELOPMENT SCHEDULE. A comprehensive statement showing the type and extent of development to be completed within the various practicable time limits and the order in which development is to be undertaken. A development schedule shall contain an exact description of the specific buildings, facilities, common open space, and other improvements to be developed at the end of each time period.~~

~~—FINAL DEVELOPMENT PLAN. The development plan approved by the City Council and recorded with the clerk of the circuit court of the county according to the provisions of this chapter.~~

~~—FINAL DEVELOPMENT PLAN APPLICATION. The application for approval of the development plan and for approval of the required exhibits as specified in this chapter.~~

~~—PLANNED UNIT DEVELOPMENT (PUD). An area of land developed as a single entity, or in approved stages in conformity with a final development plan by a developer or group of developers acting jointly, which is master planned to provide for a variety of residential and compatible uses and common open space.~~

~~—PRELIMINARY DEVELOPMENT PLAN. The development plan approved by the City Council and filed with approval of the city of a planned unit development zone.~~

~~—PRELIMINARY DEVELOPMENT PLAN APPLICATION. The application for approval of the use of a site as a planned unit development and for approval of the required exhibits as specified in this chapter.~~

~~—SITE. The actual physical area to be developed as a planned unit development, including the natural and created characteristics of the area.~~

~~—SMALL PLANNED UNIT DEVELOPMENT (SPUD). An area of land developed as a single entity, or in approved stages in conformity with a final development plan by a developer or group of developers acting jointly, which is master planned to allow for a mixture of commercial and residential uses, to include for smaller sized (under 800 square feet) single or two-family structures and common open space. A SPUD may include Tiny Homes on Wheels (THOW), as defined in § 185.006. Connection to public sanitary sewer and public water required, if readily available as defined by the Mandatory Connection section of the Utility Code, § 200.11(N) or upon approval of the Utilities Director after a consideration of (1) distance of development to connection; and (2) potential detriment to the system.~~

~~—STAGE. A specified portion of the planned unit development that may be developed as an independent entity that is delineated in the preliminary development plan and the final development plan, and specified within the development schedule.~~

~~—ZERO-LOT ——— LINE ——— SINGLE-FAMILY ——— DETACHED DEVELOPMENTS. Residential developments or single-family detached dwelling units where the dwelling units are placed on one (1) side lot line but where no two (2) dwelling units share a line but where no two (2) dwelling units share a common side lot line and which meet all requirements of this subchapter.~~

~~§ 185.061 PURPOSE AND INTENT.~~

~~—(A) Purpose. The purpose of the planned unit development (PUD) district is to provide a particularized zoning district that recognizes unique conditions, allows design flexibility, and promotes planned diversification and integration of uses and structures, which other zoning districts cannot accommodate, while also retaining the city council's authority to establish such limitations and regulations as it deems necessary to protect the public health, safety, and general welfare. The PUD district is designed to:~~

~~—(1) Encourage flexible land development that sustainably uses land and infrastructure, reduces transportation needs, conserves energy, and maximizes the preservation of natural resources.~~

~~—(2) Allow for the integration of different land uses and densities in one development that would not otherwise be provided for in other zoning districts in this chapter, and which encourage compatibility in overall site design and scale, both internal and external, to the project site.~~

~~—(3) Permit outstanding and innovative residential and nonresidential developments with quality-of-life design features, such as an integration of housing types and accommodation of changing lifestyles within neighborhoods; design that encourages internal and external convenient and comfortable travel by foot, bicycle, and transit through such strategies as pedestrian scale, a building orientation generally toward streets and sidewalks, parking located to the side or rear of buildings, narrow streets, modest setbacks, front porches, connected streets, multiple connections to nearby land uses, terminated vistas, recessed garages, alleys, enhances landscaping, and mixed-uses.~~

~~—(4) Establishment of criteria for the inclusion of compatible associated uses to complement the residential areas within the planned unit development.~~

~~—(5) Achieve overall coordinated building and facility relationships and infill development, and eliminate the negative impacts of unplanned and piecemeal development.~~

~~§ 185.062 PERMITTED USES.~~

~~—Uses permitted in the planned unit development may include and shall be limited to the following and contain a minimum of five (5) acres, except for a Small Planned Unit Development (SPUD) which shall contain a minimum of one (1) acre:~~

~~—(A) Primary residential uses:—Single-family detached and multi-family residential dwelling units (including apartments) in semi-detached, attached, and multi-storied structures.~~

~~—(B) Nonresidential uses. Nonresidential uses of a religious, public or semipublic, cultural, recreational or commercial character and personal service centers, offices and professional centers providing services to residents of the planned unit development. Also included are public utility equipment and facilities. The nonresidential uses shall be compatible with the residential uses and shall provide for a walkable community to the greatest extent possible.~~

~~—(C) Hotels, motels, restaurants, and entertainment venues. Hotels, motels, restaurants, and entertainment venues may be permitted upon a consideration of the following criteria:~~

~~—(1) The total acreage used for the hotel, motel, restaurant, and entertainment venues, including necessary parking, support buildings, grounds and appurtenances shall not be considered common open space.~~

~~—(2) The proposed streets and traffic flow and the streets, thoroughfares, and traffic plan in the area adjacent to the site plan shall be adequate to support the anticipated traffic to be generated by the proposed hotel, motel, restaurant, and entertainment venues. The development plan shall provide pedestrian connectivity between residential and commercial uses providing for a walkability to the greatest extent possible.~~

~~—(3) The proposed hotel, motel, restaurant, and entertainment venues use is compatible with the proposed residential uses, nonresidential uses, and common open space within the planned unit development.~~

~~—(4) The proposed hotel, motel, restaurant, and entertainment venue use is compatible with the existing land use classification in the surrounding vicinity.~~

~~—(5) The area of the use shall be calculated as part of the total commercial acreage required.~~

~~—(D) Small planned unit developments. A SPUD shall be a minimum of one acre and a maximum of five acres, and may contain a horizontal or vertical mixture of residential and commercial uses. SPUDs shall not be developed using mobile homes, but may allow tiny homes on wheels as defined in § 185.006. SPUDs must be connected to the City of Palm Bay water and sewer distribution system. The City reserves the right to deny extension of public utilities. The decision to extend public sanitary sewer and public water shall be made upon the recommendation of the Utilities Director or designee. The Utilities Director shall base the recommendation on:~~

~~—(1) The factors included in the Mandatory Connection section of the Utility Code, § 200.11(N) Palm Bay Code of Ordinances.~~

~~§ 185.063 UNIFIED OWNERSHIP OR CONTROL.~~

~~—The title to all land within a proposed site for a planned unit development shall be owned or controlled by a developer submitting the applications provided for under this subchapter. The term CONTROLLED BY shall be interpreted to mean that the developer shall have the written consent of all owners of property within the proposed site not wholly owned by the developer. The consent shall contain a statement that the developer is authorized to represent the owners in the submission of an application under the provisions of this subchapter and that the owners shall agree to be bound by the decision of the City Council in the event application is approved.~~

~~§ 185.064 COMMON OPEN SPACE.~~

~~—(A) All common open space shall be preserved for its intended purposes as expressed in the final development plan. The developer shall choose one (1) or a combination of the following three (3) methods of administering common open space:~~

~~—(1) Public dedication accepted by the city may be included in the calculation of the common open space. This method is subject to formal acceptance by the city in its sole discretion.~~

~~—(2) Establishment of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development to ensure the maintenance of all common open space.~~

~~—(3) Retention of ownership, control and maintenance of all common open space by the developer.~~

~~—(B) All privately owned common open space shall continue to conform to its intended use and remain as expressed in the final development plan through the inclusion in all deeds of appropriate restrictions to ensure that the common open space is permanently preserved according to the final development plan. The deed restrictions shall run with the land and be for the benefit of present as well as future property owners and shall contain a prohibition against partition.~~

~~—(C) All common open space, as well as public and recreational facilities, shall be specifically included in the development schedule and be constructed and fully~~

~~improved by the developer at an equivalent or greater rate than the construction of residential structures.~~

~~—(D) If the developer elects to administer common open space through an association or nonprofit corporation, the organization shall conform to the following requirements:~~

~~—(1) The developer must establish the association or nonprofit corporation prior to the sale of any lots.~~

~~—(2) Membership in the association or nonprofit corporation shall be mandatory for all residential property owners within the planned unit development and the association or corporation shall not discriminate in its members or shareholders.~~

~~—(3) The association or nonprofit corporation shall manage all common open space and recreational and cultural facilities that are not dedicated to the public, shall provide for the maintenance, administration and operation of the land, any other land within the planned unit development not publicly or privately owned, and shall secure adequate liability insurance on the land. If the developer elects an association or nonprofit corporation as a method of administering common open space, the title to all residential property owners shall include an undivided fee simple estate in all common open space.~~

~~§ 185.065 LAND USE REGULATIONS.~~

~~—(A) Minimum size with commercial uses. Shall contain a minimum of five (5) acres. A Small PUD shall contain a minimum of one (1) acre; commercial uses shall not be required in a SPUD.~~

~~—(B) Maximum density. The average density permitted in each PUD shall be established by the City Council, upon recommendation of the Planning and Zoning Board. The criteria for establishing an average density includes existing zoning, adequacy of existing and proposed public facilities and services, site characteristics, and the recommended density of any land use plan involving the area in question. In no case shall maximum density permitted exceed the underlying Future Land Use.~~

~~—(C) Minimum common recreation and open space: twenty-five percent (25%) of gross site acreage, except for a SPUD which shall have minimum of ten percent (10%) open space. COMMON RECREATION AND OPEN SPACE shall be defined as the total amount of improved usable area, including outdoor space, permanently set aside and designated on the site plan as recreational or open space for use by residents of the PUD. Such usable space may be in the form of active or passive~~

~~recreation areas including, but not limited to: Playgrounds, golf courses, nature trails, non-public recreational vehicle storage, stables, and lakes. Common open space shall be improved to the extent necessary to complement the residential uses and may contain compatible and complimentary structures for the benefit and enjoyment of the residents of the PUD. Easements, parking areas, road rights-of-way or minimum yards, and spacings between dwelling units, may not be included in determining usable open space. Water areas may be used to partially fulfill open space requirements. If golf courses and/or water areas are used to partially fulfill open space requirements, calculations for such may not exceed sixty percent (60%) of the required open space. All water areas included as part of the open space requirement, shall be permanent water bodies and shall be improved with docks or piers, minimum sloped edge as per applicable City and State regulations, and planted with grass and maintained around all sides so as not to harbor mosquitoes, insects and rodents.~~

~~—(D) Minimum lot area, frontage, and setbacks.~~

~~—(1) No minimum lot size shall be required within a PUD district apart from zero lot line single family detached developments. Any access driveway to individual lots must have minimum sixteen (16) foot of width.~~

~~—(a) Minimum driveway width for an individual residential lot within a SPUD shall be ten (10) feet wide.~~

~~—(2) Each dwelling unit or other permitted use shall have access to a public street either directly or indirectly via an approach private road, pedestrian way, court or other area dedicated to public or private use or common easement guaranteeing access. Permitted uses are not required to front on a public dedicated road. The city shall be allowed access on privately owned roads, easements and common open space to insure the police and fire protection of the area to meeting emergency needs, to conduct city services, and to generally ensure the health and safety of the residents of the PUD.~~

~~—(3) Minimum distances between structures shall be:~~

~~—(a) Between structures of two (2) stories or less — ten (10) feet.~~

~~—(b) Between structures of three (3) stories — twenty (20) feet.~~

~~—(c) Between structures of four (4) stories — thirty (30) feet.~~

~~—(d) Between structures over four (4) stories — thirty (30) feet, plus five (5) feet for each additional story.~~

~~—(e) Between structures of varying heights, the larger distance separation shall be required.~~

~~—(f) The minimum distance between residential structures in a SPUD shall be eight (8) feet.~~

~~—(4) The setback required from the nearest part of any building wall to the edge of any public right of way or private street and the minimum setback maintained between the walls of all structures and the perimeter of the PUD will be included in the proposed development plan and approved by City Council according to Section 185.066(B)(6) Review By City Council..~~

~~—(5) Property bordering a river water body shall preserve thirty percent (30%) of river frontage as a breezeway.~~

~~—(E) Maximum length of structures: two hundred (200) feet, unless an excess is specifically authorized by the Planning and Zoning Board.~~

~~—(F) Minimum commercial use area. The minimum commercial area permitted within a PUD shall be fifteen percent (15%) of the total gross acreage of the site, if the PUD contains more than five hundred (500) dwelling units, the minimum commercial area shall be increased to twenty percent (20%) of the total gross acreage, or the underlying future land use, whichever is greater. The areas shall be situated and buffered so as not to create any detrimental effect on residential uses. A SPUD shall require a minimum of twenty percent (20%) commercial uses, based upon floor area ratio (FAR) or the gross floor area of the first floor (footprint) of all principal use buildings, unless the SPUD is entirely composed of tiny homes on wheels as defined in § 185.006.~~

~~—(G) Minimum floor living area per unit:~~

~~—(1) Single-family dwellings — eight hundred (800) square feet.~~

~~—(2) Multi-family dwellings: None.~~

~~—(3) Hotel and motel units (where permitted) — two hundred and eighty (280) square feet per efficient unit.~~

~~—(4) Dwelling units within a SPUD shall not be required to have a minimum floor area.~~

~~—(H) Off-street parking.~~

~~—(1) Residential use.~~

~~—— (a) A minimum of two (2) parking spaces per single-family dwelling unit shall be provided.~~

~~—— (b) Dwelling units within a SPUD shall provide a minimum of one (1) parking space per unit.~~

~~—— (c) Multiple-family dwellings shall have a minimum of:~~

~~—— 1. Two (2) parking spaces per three (3) or more bedroom dwelling unit;~~

~~—— 2. One and one-half (1½) parking spaces per one (1) or two (2) bedroom dwelling unit; and~~

~~—— 3. One (1) space per efficiency unit that is part of a mixed one (1) and two (2) bedroom development.~~

~~—— (d) A development of efficiency units only shall have a minimum of one and one-half (1½) parking spaces per unit.~~

~~—— (e) Each space shall have a minimum width of ten (10) feet and a minimum length of nineteen (19) feet. If a parking stall contains a wheel stop or abuts a curbed or landscaped island, an overhang may be permitted, and the length of the stall thereby shortened to a minimum of sixteen (16) feet. Parking spaces for residential uses within a SPUD may be reduced in size from the above, if the standards are approved by the City Council. Parking areas shall not be separated from structures by any public right-of-way.~~

~~—— (2) Nonresidential uses. Within commercial areas, one (1) space shall be provided for each two hundred (200) square feet of retail floor area. Each space shall have a minimum width of ten (10) feet and a minimum length of nineteen (19) feet. If a parking stall contains a wheel stop or abuts a curbed or landscaped island, an overhang may be permitted and the length of the stall thereby shortened to a minimum of sixteen (16) feet. A reduction in parking requirements may be considered by the Planning and Zoning Board when the development plan provides for direct pedestrian access from residential uses:~~

~~—— (a) Restaurants — One (1) space for each three (3) seats, plus one (1) space for every employee.~~

~~—— (b) Hotels and motels — One (1) space for each guest room or rental unit, plus one (1) space for each two (2) employees.~~

~~—— (c) Other non-residential uses to be determined by the Planning and Zoning Board.~~

~~—(3) Landscaping. Within all common parking areas, a minimum of fifty (50) square feet of landscaped area shall be provided per parking space and such landscaped areas shall be distributed throughout the parking area.~~

~~—(I) Underground utilities. Within the PUD, all utilities including telephone, television cable, and electrical systems shall be installed underground. Primary facilities providing service to the site of the PUD may be exempted from this requirement. Large transformers shall be placed on the ground and contained within pad mounts, enclosures or vaults. The developer must provide landscaping with shrubs and plants to screen all utility facilities permitted above ground. The zoning board may require that substations be fenced and screened by trees and shrubs or walls resembling a structure which is compatible with the design of the buildings within the PUD.~~

~~—(J) Development standards. The minimum construction requirements for streets or roads, sidewalks, sewer facilities, utilities and drainage dedicated to the public shall be in compliance with the requirements of the city's subdivision regulations set forth in Chapter 184 of this code of ordinances. The development standards of this district may be waived by the City Council upon the recommendation of the Planning and Zoning Board.~~

~~—(K) Preservation of trees. Planned unit developments shall be regulated by the adopted city Landscape provisions.~~

~~—(L) For zero-lot line single-family detached developments only.~~

~~—(1) Interior side yard. The dwelling unit shall be placed on one (1) interior side property line with a zero setback and the dwelling unit setback on the other interior side property line shall be a minimum of ten (10) feet excluding the connecting elements such as fences, walls and trellises. If side yard abuts a street, setback should be at least twenty-five (25) feet.~~

~~—(2) Front setback. All dwelling structures shall be set back a minimum of twenty-five (25) feet from the front property line.~~

~~—(3) Rear setback. All dwelling structures shall be set back a minimum of ten (10) feet from the rear property line. The placement of patios, pools, garden features and other similar elements should be addressed initially as part of the PUD process.~~

~~—(4) Street frontage. Each lot shall have a clear direct frontage on public streets or to access ways complying with private street requirements.~~

~~—(5) Platting requirements. Each dwelling unit shall be located on its own individually platted lot.~~

~~—(6) Building heights. For a single-family dwelling only, the height shall not exceed two (2) stories and twenty-five (25) feet in height.~~

~~—(7) Minimum lot area. The minimum lot area shall be four thousand and fifty (4,050) square feet, or forty-five (45) feet by ninety (90) feet.~~

~~—(8) Minimum square footage of living spaces. For each unit, the minimum shall be eight hundred (800) square feet of living space under heat and air conditioning, not including garage and covered porch area.~~

~~—(9) Maximum building coverage. The maximum building coverage of the structure shall not exceed fifty percent (50%).~~

~~—(10) Opening prohibited on zero lot line side. The wall of the dwelling located on the lot line side shall have no doors, air conditioning units or any other type of openings which would detract from the side yard privacy of the adjacent dwelling; provided, however, that atriums or courts shall be permitted on the zero lot line side when the court or atrium is enclosed by three (3) walls of the dwelling unit, and a solid wall the height of the roof line is provided on the zero lot line. The wall shall be constructed of the same material as exterior walls of the unit.~~

~~—(11) Maintenance and drainage easement. A perpetual four (4) foot wall maintenance easement shall be provided on the lot adjacent to the zero lot line property line, which, with the exception of walls and/or fences, shall be kept clear of structures. This easement shall be included in the covenants of restrictions and incorporated into each deed transferring title to the property. Roof overhangs may penetrate the easement on the adjacent lot a maximum of twenty-four (24) inches. Measures shall be taken by the developer to direct runoff into the overall master drainage plan as submitted with the PUD.~~

~~§ 185.066 PROCEDURE FOR APPROVAL OF A PRELIMINARY DEVELOPMENT PLAN AND TENTATIVE ZONING.~~

~~—The following procedures, applications, and exhibits shall be required when applying for tentative zoning approval of a preliminary plan:~~

~~—(A) Preliminary development plan application.~~

~~—(1) Preliminary application. A preliminary application shall be submitted to the Land Development Division by the developer requesting approval of the site as a planned unit development zone. The preliminary application shall contain the name~~

~~of the developer, surveyor and engineer who prepared the development plan and topographic data map, and the name of the proposed planned unit development.~~

~~— (2) Exhibits. The following exhibits shall be attached to the preliminary application:~~

~~— (a) Development plan that shall contain, but not be limited to, the following information:~~

~~— 1. Proposed name or title of project, the name of the engineer, architect, and developer.~~

~~— 2. North arrow, scale (one (1) inch equals two hundred (200) feet or larger), date, and legal description of the proposed site.~~

~~— 3. Boundaries of tract shown with bearings, distances, closures, and bulkhead liner. All existing easements, section lines and all existing streets and physical features in and adjoining the project, and the existing zoning.~~

~~— 4. Proposed parks, school sites or other public or private open space.~~

~~— 5. Off-street parking, loading areas, driveways and access points.~~

~~— 6. Site data including tabulation of the total number of gross acres in the project, the acreage to be devoted to each of the several types of primary residential and secondary nonresidential uses, and the total number of dwelling units, the maximum height of all structures, the minimum setbacks of all structures (and parking areas) and the total area of pervious and impervious surfaces.~~

~~— 7. Delineation of phased development, if applicable.~~

~~— 8. Proposed means of drainage for the site.~~

~~— (b) Schematic drawing of the elevation and architectural construction of the proposed primary and secondary nonresidential structures.~~

~~— (3) Submittal.~~

~~— (a) The PUD zoning application and preliminary development plan (PDP) shall be submitted to the Land Development Division. Plans will not be distributed for city staff review until all items are submitted and sufficient for review. The PDP application must be complete and accompanied by two (2) copies of the preliminary development plan, as described in these regulations, an approved electronic copy, a filing fee, and a list of all owners of adjacent property and/or property directly opposite of the proposed subdivision. Such property owner information shall be obtained from the most recent County Tax Appraiser's rolls.~~

~~1. City staff will review the PDP application package for completeness and notify the applicant in writing whether the application submitted is sufficient or otherwise specify any deficiencies in the application. The City shall provide this notification in accordance with the timelines set forth in F.S. § 166.033.~~

~~2. Once the preliminary development plan application package is determined sufficient, the development coordinator will distribute the package to city staff. Pursuant to F.S. § 166.033(2), the city will not request additional information from the applicant more than three (3) times, without requesting a meeting with the applicant to discuss outstanding issues, unless the applicant waives this limitation in writing. If not waived, the city will proceed to process the application for approval or denial.~~

~~(b) Once the application is deemed complete, the Land Development Division shall process and coordinate the review of the preliminary development plan by the appropriate city departments. The appropriate city departments, to include police and fire departments, shall review and comment on the submitted information. Written comments from the city departments shall be returned to the Land Development Division to be incorporated into a staff report and prepared for a regularly scheduled meeting of the Planning and Zoning Board in accordance with the timelines set forth in F.S. § 166.033.~~

~~(c) Courtesy notice letters of the meeting shall be sent to the owners of abutting and opposite properties of the proposed subdivision. Failure by owners to receive such courtesy notice shall not affect any action or proceedings taken however. Notice of such a meeting shall also be posted on the property for which subdivision is sought.~~

~~(d) Preliminary development plans must be approved by City Council. Once plans are ready for the City Council, the applicant shall be notified.~~

~~(4) Application review.~~

~~(a) The preliminary development plan shall be reviewed formally by the Planning and Zoning Board to determine its conformity with the official plans and policies of the city and the requirements of this subchapter.~~

~~(b) Upon completion of its review, the Planning and Zoning Board shall recommend to the City Council, the approval, approval subject to conditions, or disapproval of the preliminary development plan application.~~

~~(5) Review criteria. The decision of the Planning and Zoning Board on the preliminary development plan application shall include the findings of fact that~~

~~serve as a basis for its recommendation. In making its recommendation, the Planning and Zoning Board shall consider the following facts:~~

~~—— (a) Degree of departure of proposed planned unit development from surrounding areas in terms of character and density.~~

~~—— (b) Compatibility within the planned unit development and relationship with surrounding neighborhoods.~~

~~—— (c) Prevention of erosion and degrading of surrounding area.~~

~~—— (d) Provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control and soil conservation as shown in the preliminary development plan.~~

~~—— (e) The nature, intent and compatibility of common open space, including the proposed method for the maintenance and conservation of the common open space.~~

~~—— (f) The feasibility and compatibility of the development plan to function as an independent development, providing for connectivity and walkability between residential and nonresidential uses within the development.~~

~~—— (g) The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed planned unit development.~~

~~—— (h) The availability and adequacy of water and sewer service to support the proposed planned unit development.~~

~~—— (i) The availability and adequacy of existing police and fire services to support the proposed planned unit development.~~

~~—— (j) The benefits within the proposed development and to the general public to justify the requested departure from standard land use requirements inherent in a planned unit development classification.~~

~~—— (k) The conformity and compatibility of the planned unit development within any adopted development plan of the city.~~

~~—— (l) The conformity and compatibility of the proposed common open space, residential and nonresidential uses within the proposed planned unit development.~~

~~—— (6) Consistency with Comprehensive Plan. A PDP application may only be approved if it is consistent with the Comprehensive Plan.~~

~~——(a) Conformance to PDP purpose. A PDP application may only be approved if it is in conformance with the purpose of PDPs as articulated in section 30-3.15.~~

~~——(b) Internal compatibility. All uses proposed within a PDP shall be compatible with other proposed uses; that is, no use may have any undue adverse impact on any neighboring use, based on the streetscape, treatment of pedestrian ways and circulation, motor vehicle circulation, and the separation and buffering of parking areas and sections of parking areas; the existence or absence of, and the location of, focal points and vistas, open spaces, plazas, recreational areas and common areas, and use of existing and proposed landscaping; use of the topography, physical environment and other natural features; use and variety of building setback or build-to lines, separations and buffering; use and variety of building groupings, building sizes, architectural styles, and materials; variety and design of dwelling types; particular land uses proposed, and conditions and limitations thereon; and any other factor deemed relevant to the privacy, safety, preservation, protection or welfare of any proposed use within the PDP.~~

~~——(c) External compatibility. All uses proposed within a PDP shall be compatible with existing and planned uses of properties surrounding the PDP; that is, no internal use may have any avoidable or undue adverse impact on any existing or planned surrounding use, nor shall any internal use be subject to undue adverse impact from existing or planned surrounding uses. An evaluation of the external compatibility of a PDP should be based on the following factors: adjacent existing and proposed uses, design of the development, traffic circulation, and density and intensity.~~

~~——(d) Intensity of development. The residential density and intensity of use of a PDP shall be compatible with and shall have no undue adverse impact upon the physical and environmental characteristics of the site and surrounding lands, and shall comply with the policies and density limitations set forth in the Comprehensive Plan. Within the maximum limitation of the Comprehensive Plan, the permitted residential density and intensity of use in a PDP may be adjusted upward or downward in consideration of the following factors: the availability and location of public and utility services and facilities; the trip capture rate of development; and the degree of internal and external connectedness of streets.~~

~~——(e) Usable open spaces, plazas and recreation areas. Usable open spaces, plazas and recreation areas provided within a PDP shall be evaluated based on conformance with the policies of the Comprehensive Plan and the sufficiency of such areas to provide appropriate recreational opportunities, protect sensitive~~

~~environmental areas, conserve areas of unique beauty or historical significance, enhance neighborhood design, and encourage compatible and cooperative relationships between adjoining land uses.~~

~~——(f) Environmental constraints. The site of the PDP shall be suitable for use in the manner proposed without hazards to persons either on or offsite from the likelihood of increased flooding, erosion or other dangers, annoyances or inconveniences. Condition of soil, groundwater level, drainage and topography shall all be appropriate to the type, pattern and intensity of development intended. The conditions and requirements of the protection of resources article shall be met.~~

~~——(g) External transportation access. A PDP shall be located on, and provide access to, a major street (arterial or collector) unless, due to the size of the PDP and the type of uses proposed, it will not adversely affect the type or amount of traffic on adjoining local streets. Access shall meet the standards set in chapter 23 and chapter 30, article VI. Connection to existing or planned adjacent streets is encouraged. The trip generation report shall be signed by a professional engineer registered in the state when there is a difference between the traffic report provided by the petitioner and the concurrency test.~~

~~——(h) Internal transportation access. Every dwelling unit or other use permitted in a PDP shall have access to a public street directly or by way of a private road, pedestrian way, court or other area that is either dedicated to public use or is a common area guaranteeing access. Permitted uses are not required to front on a dedicated public road. Private roads and other accessways shall be required to be constructed so as to ensure that they are safe and maintainable.~~

~~——(i) Provision for the range of transportation choices. Sufficient off-street and on-street parking for bicycles and other vehicles, as well as cars, shall be provided. Parking areas shall be constructed in accordance with such standards as are approved by the city commission to ensure that they are safe and maintainable and that they allow for sufficient privacy for adjoining uses. When there is discretion as to the location of parking in the project, it is strongly encouraged that all motor vehicle parking be located at the rear or interior side of buildings, or both. The design of a PDP should, whenever feasible, incorporate appropriate pedestrian and bicycle accessways so as to provide for a variety of mobility opportunities. Connection to all sidewalks, greenways, trails, bikeways, and transit stops along the perimeter of the PDP is required. Where existing perimeter sidewalks do not exist, sidewalks shall be provided by the development.~~

~~—(7) Review by City Council. Upon receiving the, recommendation of the Planning and Zoning Board, the City Council shall, at a regularly scheduled public hearing, review the recommendation and preliminary development plan and either approve, approve subject to conditions, or disapprove the preliminary development plan application. The decision of the Council shall be based upon a consideration of the facts specified as review criteria for the zoning board in § 185.064.~~

~~—(8) Recordation of preliminary application. In the event the primary development plan application is approved by the City Council, a copy of such application and required exhibits shall be certified and approved by the City Clerk as a permanent record. A notice of such approval and filing, containing a legal description of the site, shall be recorded in the official records of the county, in the form of a resolution.~~

~~—(B) Applications in excess of one thousand (1,000) acres.~~

~~—(1) In the event any PUD application is in excess of one thousand (1,000) acres, the City Council may approve planned unit development zoning based on the requirements in this section on a revised or general basis. Specifically, the exact requirements of divisions (A)(2) above may be revised in terms of map scale and detail required.~~

~~—(2) Following this, the developer shall have six (6) months to present a preliminary development plan for any minimum stage of ten (10) acres. At the request of the developer, and for good cause shown, the City Council may extend the period required for the filing of the plan for a time certain not to exceed six (6) months. The plan shall be reviewed by the Planning and Zoning Board and the procedure of divisions (A) above would specifically then apply to any stage or the total development. Provided, however, approval of a preliminary development plan shall be a condition precedent to the filing of an application for the approval of a final development plan under § 185.067.~~

~~—(C) Amendments.~~

~~—(1) Except as otherwise provided in this section, an amendment to an approved PDP (except for an extension of a time limit) shall be accomplished only by a new PDP rezoning application.~~

~~—(2) The following types of amendments to the requirements of an approved PUD may be authorized by the appropriate reviewing board during development plan review, provided such amendments meet the criteria set forth in this subchapter for the development review process.~~

- ~~— (3) Minor adjustments or shifts in the location and siting of buildings, structures, parking bays, and parking spaces.~~
- ~~— (4) Changes in the location of utility tie-ins and solid waste, recycling, and yard trash containers.~~
- ~~— (5) Reductions in the overall density or intensity of structural ground coverage of the development.~~
- ~~— (6) Changes in the location and types of landscape materials, excluding changes in location of buffers.~~
- ~~— (7) Minor changes in the walkway and bikeway systems.~~
- ~~— (8) The addition of accessory structures or utility buildings of less than one thousand (1,000) square feet where there are no major changes to the perimeter features of the development.~~
- ~~— (9) The addition of up to ten new parking spaces.~~
- ~~— (10) Any expansion of gross floor area or enlargement of the building envelope that does not require the addition of required parking spaces or alter standards of the PUD ordinance.~~
- ~~— (11) Modifications that do not entail amendments to specific language included within the PDPDP ordinance.~~

~~§ 185.067 PROCEDURE FOR SECURING APPROVAL OF A FINAL DEVELOPMENT PLAN.~~

~~The developer shall have one (1) year from the approval of the preliminary development plan for a planned unit development zone in which to file a final development plan application. At the request of the developer, and for good cause shown, the City Council may extend the period required for the filing of the application for a time certain not to exceed one (1) year. The final development plan application may request approval for the entire planned unit development plan or any stage. If approval is not requested for the entire planned unit development, the developer shall have one (1) year from approval of the final development plan application to file another final development plan application for approval of any or all of the remaining stages specified in the preliminary development plan. At the request of the developer, and for good cause shown, the City Council may extend for a time certain not to exceed one (1) year, the period for the filing of the application.~~

~~—(A) Required exhibits. The exhibits identified in § 185.066(B)(2)(a) shall be attached to the final development plan application.~~

~~—(1) In addition to the requirements of (A) above, a boundary and topographic map shall be submitted and shall include the location, size and type of all trees (per the standards identified in Chapter 180).~~

~~—(2) Development schedule. The development schedule shall contain the following information:~~

~~—(a) The order of construction of the proposed stages delineated in the development plan.~~

~~—(b) The proposed date for the beginning of construction of such stages.~~

~~—(c) The proposed date for the completion of construction on such stages.~~

~~—(d) The proposed schedule for the construction and improvement of common open space within such stages, including any complementary buildings.~~

~~—(3) Deed restrictions. Deed restriction proposals to preserve the character of the common open space as set forth in § 185.064. The deed restrictions shall include a prohibition against partition by any residential property owner.~~

~~—(4) Instruments dedicating all rights-of-way, easements and other public lands shown on the final development plan from all persons having any interest in the land.~~

~~—(5) Title opinion. A title opinion from an attorney showing the status of the title to the site encompassed by the final development plan and all liens, encumbrances and defects, if any.~~

~~—(B) Procedure.~~

~~—(1) A fee as established by resolution pursuant to § 169.004 shall accompany the final development plan application for the purpose of administration; additionally, engineering, plat filing, necessary copies and travel fees will be incurred.~~

~~—(2) The Planning and Zoning Board shall recommend the approval, approval subject to conditions, or disapproval of the final development plan with the preliminary development plan, the sufficiency and accurateness of the required exhibits, and the requirements and purposes of this subchapter and any other applicable provision of this code of ordinances and any other regulation of the city.~~

~~The Planning and Zoning Board shall recommend the approval, approval subject to change, or denial of the final development plan.~~

~~—(3) The City Council shall review the recommendations of the Planning and Zoning Board at a regular public hearing of the City Council and shall approve, approve subject to conditions, or deny the final development plan application. The final development plan approval shall constitute a PUD rezoning enacted by Ordinance. The final development plan shall be binding upon the land contained with the plan. Any proposed modifications to the final development plan shall be submitted to the Growth Management Director for determination of departure. If determined to be a substantial deviation from the approved final development plan, the applicant must receive Final PUD approval from City Council for such deviation.~~

~~—(C) Recording of final development plan.~~

~~—(1) After approval by the City Council of the final development plan application, the City Clerk shall see that all requirements of Fla. Stat. Ch. 177 have been complied with before the final development plan is recorded in the public records of the county.~~

~~—(2) The transfer of, sale of, agreement to sell, or negotiation to sell land by reference to or exhibition of, or other use of a final development plan of a planned unit development, or portion thereof, that has not been given final approval by the City Council and recorded in the official records of the county is prohibited. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such prohibition.~~

~~§ 185.068 PHYSICAL REVIEW.~~

~~—The city shall have the right to evaluate the physical layout, architectural characteristics and amenities of the planned unit development and to suggest changes or modifications designed to create compatibility and conformity in the variety of uses within the development to insure, protect and promote the health, safety and general welfare of the property owners of the planned unit development and the residents of the city.~~

~~§ 185.069 BUILDING PERMIT.~~

~~—No building permit shall be issued by the city until the final development plan has been approved and duly recorded as provided in this subchapter.~~

~~§ 185.070 BONDING.~~

~~—The PUD shall follow the bonding procedures listed in § 184.11 of the Code of Ordinances.~~

~~§ 185.071 TERMINATION OF PUD ZONE.~~

~~—(A) Any owners of all or a portion of land that has been designated a planned unit development under the provisions of this subchapter can apply to the city for the termination of that portion of a stage within an approved final development plan within which his property is located if construction has not been commenced pursuant to such final development plan. The procedure for the termination shall be that applicable to a zoning district change under this chapter and any other applicable zoning ordinance.~~

~~—(B) Failure of the developer to file a final development plan application within the time periods specified in § 185.067 shall automatically revoke approval of § 185.066(B)(7), and the site shall revert to the zoning classifications for which the property was zoned prior to the approval of the preliminary development plan. A notice of the revocation, containing a legal description of the site, shall be recorded in the official records of the county.~~

~~§ 185.072 ENFORCEMENT.~~

~~—In addition to any other method of enforcement, the city shall have the power to enforce the provisions of this subchapter by appropriate suit in equity.~~

CONDITIONAL USES

~~§ 185.085 INTENT.~~

~~—Certain land uses, due to their unique functional characteristics and the potentiality for their incompatibility with adjoining land uses, require special consideration on an individual basis of their suitability for location and development within particular zoning districts. Such uses have been designated as conditional uses within appropriate zoning district classifications set forth in §§ 185.030 et seq. and §§ 185.060 et seq. It is the intent of this subchapter that such uses may be permitted in the zoning district classifications only after affirmative findings that they can be developed at particular locations in a compatible manner.~~

~~§ 185.086 APPLICATION FOR CONDITIONAL USES; FEES.~~

~~—Written application for conditional use shall be complete and made to the Land Development Division using the application form provided by the city. Application must be filed not later than the first day of the month preceding the scheduled hearing month. The applicant shall be required to pay any fee as may be~~

~~established to defray processing and advertising costs related to review and hearing of the application. An application shall be accepted only for a conditional use specifically listed within the zoning district classification applying to the subject property or as specifically provided for elsewhere in this chapter.~~

~~§ 185.087 GENERAL REQUIREMENTS AND CONDITIONS.~~

~~Standards for approval. In its deliberations concerning the granting of a conditional use, the City Council shall carefully consider the following guidelines and standards:~~

~~(A) Adequate ingress and egress may be obtained to and from the property, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.~~

~~(B) Adequate off-street parking and loading areas may be provided, without creating undue noise, glare, odor or other detrimental effects upon adjoining properties.~~

~~(C) Adequate and properly located utilities are available or may be reasonably provided to serve the proposed development.~~

~~(D) Adequate screening and/or buffering will be provided to protect and provide compatibility with adjoining properties.~~

~~(E) Signs, if any, and proposed exterior lighting will be designed and arranged so as to promote traffic safety and to eliminate or minimize any undue glare, incompatibility, or disharmony with adjoining properties.~~

~~(F) Yards and open spaces will be adequate to properly serve the proposed development and to ensure compatibility with adjoining properties.~~

~~(G) The proposed use will not constitute a nuisance or hazard because of the number of persons who will attend or use the facility, or because of vehicular movement, noise, fume generation or type, of physical activity. The use as proposed for development will be compatible with the existing or permitted uses of adjacent properties.~~

~~(H) Development and operation of the proposed use will be in full compliance with any additional conditions and safeguards which the City Council may prescribe, including, but not limited to, reasonable time limit within which the action for which special approval is requested shall be begin or be completed, or both.~~

~~§ 185.088 SPECIAL REQUIREMENTS AND CONDITIONS.~~

~~— For those conditional uses listed below, the following special requirements shall apply in addition to those of § 185.087:~~

~~— (A) Churches. A conditional use may be granted under the following conditions:~~

~~— (1) The site has direct access to a collector or arterial roadway.~~

~~— (2) Minimum setbacks shall be twenty (20) feet from all property lines or the minimum setback of the district, whichever are greater.~~

~~— (3) Proposed sites not having direct access to a collector or arterial roadway must prepare a traffic impact study, approved by the City Engineer, to support the compatibility of the church use with surrounding uses. In addition, day care centers and schools are not permitted as accessory uses on these sites.~~

~~— (4) Minimum size: one (1) acre.~~

~~— (B) Clubs, lodges and similar activities. A conditional use may be granted under the following conditions:~~

~~— (1) The site has direct access to a collector or arterial roadway.~~

~~— (2) Minimum setbacks shall be twenty (20) feet from all property lines or the minimum setbacks of the district, whichever are greater.~~

~~— (3) Minimum size: one (1) acre.~~

~~— (C) Commercial dog kennels. A conditional may be granted under the following conditions:~~

~~— (1) No structures, pens, or runs shall be located within fifty (50) feet of any property line.~~

~~— (2) Open kennels must be visually screened from off-site view.~~

~~— (3) The site is a minimum of one (1) acre in size.~~

~~— (D) Planned industrial development. Development of industrial use or group of industrial uses of five (5) or more acres intended to be developed according to a carefully drawn plan, may be permitted by the City Council as a conditional use, after review by the Planning and Zoning Board, in the LI and HI zoning districts. This provision is intended to encourage better organization and controlled development for land reserved primarily for industrial uses, to create a compatible environment for a variety of industrial activities, to protect the integrity of surrounding residential and commercial uses, to allow and encourage proper placement and design for those commercial and residential uses which augment~~

~~the principal uses, and to discourage commercial and residential encroachment upon areas which should be reserved for industrial activities. In order to qualify for such conditional use, the following conditions must be met:~~

~~— (1) Ownership. The site proposed shall be in one (1) ownership, or, if in several ownerships, the request for conditional use shall be filed by all owners of the properties included in the plan.~~

~~— (2) Zoning provisions. All other portions of the respective zoning district regulations and all other applicable portions of this chapter.~~

~~— (3) Street frontage. The site proposed shall have a minimum width of two hundred (200) feet along a major street frontage.~~

~~— (4) Access limitations. The minimum distance between access points shall be at least one hundred and fifty (150) feet, and the minimum distance between any one (1) location and an intersection of two (2) or more street rights-of-way shall be one hundred (100) feet.~~

~~— (5) Site plan.~~

~~— (a) Concurrent with the request, a site plan, shall be submitted on which structures shall be located in relation to:~~

~~— 1. Each other and to major entrances into and off the site;~~

~~— 2. Internal circulation ways;~~

~~— 3. Parking and service areas; and~~

~~— 4. Landscaped areas.~~

~~— (b) The site plan and supporting data shall also show proposed standards for development, including restrictions of the use of property; plans for the provisions of utilities, including water, sewer and drainage facilities; plans for protection of abutting properties; plans for cross access and/or shared parking areas; and such other plans, tabulations and other data that the City Council may require.~~

~~— (6) Tree regulations. Full compliance with the city tree regulations set forth in this chapter, in Chapter 180 and in any other applicable ordinance of the city must be assured.~~

~~— (7) Office/business parks. All office/business park proposals must provide a list of prohibited and permitted uses in the proposed business park. The applicant~~

~~should also address how the development will be designed and regulated to ensure the compatibility of uses within the office/business park.~~

~~—(E) Public and private schools. A conditional use may be granted under the following conditions:~~

~~—(1) The proposed site is located on a collector or arterial roadway;~~

~~—(2) Minimum setbacks shall be twenty (20) feet from all property lines or the minimum setbacks of the district, whichever are greater;~~

~~—(3) Minimum size, one (1) acre.~~

~~—(F) Self storage facilities may be granted with the following conditions:~~

~~—(1) Design standards. The following minimum design standards shall apply to the construction of new self-storage facilities or, to the maximum extent feasible, the expansion or redevelopment of existing self-storage facilities.~~

~~—(a) No door openings for any storage unit with the exception of emergency egress doors shall be constructed facing any residentially zoned property.~~

~~—(b) The submitted conditional use site plan shall include a landscape plan.~~

~~—(c) Interior traffic lanes shall be a minimum of thirty-five (35) feet wide for two-way traffic and a minimum of twenty-five (25) feet for one-way traffic, in order to accommodate loading and unloading as well as through and/or emergency traffic.~~

~~—(d) The maximum storage unit size is limited to 300 square feet.~~

~~—(e) There shall be no outside storage at the site.~~

~~—(f) No roll up door openings for any storage unit shall be constructed facing any right-of-way.~~

~~—(g) Properties with the principal use as self-storage may locate along major collector or higher classified roads. For locations on lower classified roads, ground floor retail is required, or the building shall be setback from the roadway.~~

~~—(h) Exterior surface materials of the primary/street facade shall be select high quality, human-scale building materials to reduce building massing and create visual interest.~~

~~—(i) The base of a building (the first two to five feet above the sidewalks) shall be differentiated from the rest of the facade with treatments such as change in material and/or color.~~

~~—(j) The primary/street facade of buildings shall incorporate no less than two (2) building materials including, but not limited to, tile, brick, stucco, cast stone, stone, formed concrete or other high-quality, long-lasting masonry material over a minimum seventy-five (75) percent of the surface area (excluding windows, doors and curtain walls.) The remainder of the wall area may incorporate other materials.~~

~~—(k) Self-storage facilities resembling long, traditional warehouse buildings are prohibited. Self-storage facilities must be designed to emulate multi-family or office buildings compatible and in harmony with the surrounding area.~~

~~—(2) Operational requirements. The following minimum operational standards shall apply to self-service storage facilities and tenants of individual storage units:~~

~~—(a) Individual storage units shall not be used for activities such as residences, offices, workshops, studios, or hobby or rehearsal areas. Further, storage units shall not be used for manufacturing, fabrication or processing of goods, services or repair of vehicles, engines, appliances or other equipment, or any other industrial activity whatsoever. In addition, storage units shall not be used for commercial activity or places of business of any kind including, but not limited to, retail sales, garage or estate sales, or auctions, unless done so by the property management company.~~

~~—(b) Storage of flammable, explosive, perishable or hazardous materials within individual storage units and on site is prohibited.~~

~~—(c) Rental agreements shall provide tenants with written notice of the minimum operational standards set forth in this section and any other conditions imposed by the city.~~

~~—(G) Communication towers and facilities. A conditional use may be granted under the following conditions:~~

~~—(1) A map showing the closest existing communication towers shall be provided.~~

~~—(2) The applicant has supplied a written affidavit that co-location of antennas or other communication facilities is not possible in any other zoning district where these facilities are permissible.~~

~~—(3) If camouflaging is required, then tower or facilities must be camouflaged as required by City Council. An elevation view of this structure shall be provided.~~

~~—(4) The applicant has obtained written confirmation that the communication facility meets FCC and FAA radio frequency emission and lighting standards.~~

~~—(5) The submittal conditional use site plan includes a landscape plan that shows the landscape buffer and its irrigation as per Section 186.07(E) of the Palm Bay Code of Ordinances.~~

~~—(6) No fence gates, equipment structure doors, or driveways shall be constructed facing any residentially zoned property, or the gates may be offset or otherwise buffered as to not be directly viewed from the residential property. This alternative must be approved by the City Planner.~~

~~—(H) Eating and drinking establishments that allow patrons to dance to music. A conditional use may be granted under the following conditions:~~

~~—(1) The applicant shall provide information and documentation that noise from the establishment will be abated so that the business will be in full compliance with Title IX: General Regulations, Chapter 92, Noise, Palm Bay Code of Ordinances.~~

~~—(2) Methods of crowd control in both interior and exterior portions of the establishment shall be provided in the application.~~

~~—(I) Security dwelling unit. A conditional use may be granted under the following conditions:~~

~~—(1) The unit will only be permitted in conjunction with a site that has wholesale trade, warehousing, storage, contractor offices with storage, assembly, machine shops, commercial flex space and/or similar uses.~~

~~—(2) No one under the age of eighteen (18) may reside within the unit, and at no time may the unit be occupied by more than two (2) persons.~~

~~—(3) The unit resident must be the owner of the property or an employee of the property owner. If the resident is not the owner, a signed and notarized contract between the property owner and the employee shall be provided to staff that addresses provisions for security.~~

~~—(4) The unit may contain no more than one thousand (1,000) square feet of gross floor area and may not be located in a free-standing structure.~~

~~—(5) There may be only one (1) security dwelling unit per property.~~

~~—(6) There shall be at least one (1) parking space designated on-site for the resident of the unit.~~

~~—(7) Applicants must demonstrate that approval of an onsite security dwelling minimizes the need for other security measures including but not limited to chain link fencing, strands of barbed wire atop fencing or walls and excessive security~~

~~lighting thereby promoting a more aesthetically acceptable site development pattern.~~

~~—(J) Wedding venues.~~

~~—(1) The minimum size of a property for a wedding venue shall be five (5) acres.~~

~~—(2) The subject property shall have direct access to a collector roadway or higher classification roadway.~~

~~—(3) The structure used for wedding venues and the associated parking areas shall meet the setbacks established for principal structures of the RR District.~~

~~—(4) The hours of operation shall be from sunrise to 11:00 P.M., not including venue setup and breakdown.~~

~~—(5) Parking surfaces shall utilize stabilized materials and shall meet the provisions established in § 185.140(B)(1).~~

~~—(6) A two-way driveway must be a minimum of twenty-four (24) feet in width at the right-of-way line and shall be paved from the right-of-way line to the edge of the roadway that the driveway connects to.~~

~~—(7) A one-way driveway must be a minimum of fifteen (15) feet in width at the right-of-way line and shall be paved from the right-of-way line to the edge of the roadway that the driveway connects to.~~

~~—(8) If a wedding venue chooses to have a sign, one detached sign shall be permitted for the venue site not to exceed six (6) feet in height, with a maximum sign area of sixteen (16) square feet, and setback a minimum of ten (10) feet from any property line.~~

~~—(9) All site lighting is subject to the provisions established in § 185.143.~~

~~—(10) All site noise is subject to the provisions established in Chapter 92.~~

~~—(K) Event halls.~~

~~—(1) The minimum size of a property for an event hall shall be five (5) acres.~~

~~—(2) The subject property shall have direct access to a collector roadway or higher classification roadway.~~

~~—(3) The structure used for event hall and the associated parking areas shall meet the setbacks established for the GC District.~~

~~—(4) The hours of operation shall be from sunrise to 12:00 A.M. not including venue setup and breakdown.~~

~~—(5) Parking surfaces shall utilize stabilized materials and shall meet the provisions established in § 185.140(C)(1).~~

~~—(6) A two-way driveway must be a minimum of twenty-four (24) feet in width at the right-of-way line and shall be paved from the right-of-way line to the edge of pavement of the roadway that the driveway connects to.~~

~~—(7) A one-way driveway must be a minimum of fifteen (15) feet in width at the right-of-way line and shall be paved from the right-of-way line to the edge of pavement of the roadway that the driveway connects to.~~

~~—(8) All site lighting is subject to the provisions established in § 185.143.~~

~~—(9) All site noise is subject to the provisions established in Chapter 92.~~

~~§ 185.089 CONDITIONAL USES; CONDITIONS GOVERNING APPLICATION; PROCEDURES.~~

~~—(A) The City Council shall hear and decide conditional uses after review of the Planning and Zoning Board. All applications for conditional uses shall be submitted to the Planning and Zoning Board for study and written, advisory recommendations. The City Council may either grant conditional uses with such conditions and safeguards as are appropriate under this chapter or other applicable code or ordinance provisions, or deny conditional uses when not in harmony with the purpose and intent of this chapter. A conditional use shall not be considered by the City Council unless and until:~~

~~—(1) A written application for a conditional use is submitted indicating the section of this chapter under which the conditional use is sought and stating the grounds on which it is requested.~~

~~—(2) Proposed conditional uses for planned development shall also be submitted to the Planning and Zoning Board for study, and the written recommendation of the Planning and Zoning Board shall be considered as part of the official record when hearing an application for a planned development.~~

~~—(3) Public notice shall be given as required by state statutes. Notice of such hearing shall be posted on the property for which conditional use is sought.~~

~~—(4) A courtesy notice shall be mailed, at the applicant's expense, to the property owners of record within a radius of five hundred (500) feet, provided,~~

~~however, that failure to mail or receive such courtesy notice shall not affect any action or proceedings taken hereunder.~~

~~—(B) In granting any conditional use, the City Council may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of this chapter. The conditional use shall commence within two (2) years of the date that the conditional use is granted, as evidence by the issuance of a certificate of occupancy, certificate of completion and/or business tax receipt, as applicable. One (1) administrative extension of one (1) year may be approved by the City Manager, or designee, following a written request by the applicant within 60 days prior to the date of expiration.~~

TRANSITION ZONING

~~§ 185.100 LOTS IN TWO (2) DISTRICTS.~~

~~—Where a district boundary line as established in this chapter or as shown on the zoning map divides a lot which was of single ownership and of record at the time of this chapter. The zoning district boundary line may be considered as running along the property line, provided the movement of the boundary line shall not be more than fifty (50) feet in either direction.~~

~~§ 185.101 LOTS IN COMMERCIAL OR INDUSTRIAL DISTRICTS ADJACENT TO RESIDENTIAL ZONE.~~

~~—(A) Where a lot in a commercial or industrial district abuts a lot in a residential district, a minimum setback of twenty five (25) feet shall be provided unless the normally required setback is greater. This twenty five (25) foot setback shall be for parking, building and all other structures.~~

~~—(B) A six (6) foot high completely opaque masonry wall, or wood fence shall be provided along the entire length of any side or rear property line abutting property zoned residential. Landscaping shall be provided in accordance with the landscape requirements of this chapter and any other applicable regulation of the city.~~

~~§ 185.102 COMMERCIAL OR INDUSTRIAL DEVELOPMENT ADJACENT TO EXISTING NONCONFORMING SINGLE FAMILY HOMES.~~

~~—(A) Where an existing nonconforming single family home exists within a commercial or industrial zoning district, new development of adjacent properties within those commercial or industrial zoning districts shall provide a six (6) foot~~

~~high, completely opaque, masonry wall or wood fence along the entire length of any common property line. This buffering requirement shall be in addition to any other applicable regulation of the city.~~

~~—(B) At such time as the nonconforming single family home converts to a permitted use within the commercial or industrial zoning district, the buffering requirement for the masonry wall or wood fence shall cease.~~

~~—(C) Any addition or modification to an existing commercial or industrial site that decreases the existing separation between the single family home and the commercial or industrial development shall require adherence to the buffering requirement provided for in subsection (A) above.~~

~~SUPPLEMENTARY DISTRICT REGULATIONS~~

~~§ 185.115 BUILDING SETBACK LINES.~~

~~—(A) For the purpose of promoting health, safety and general welfare of the community, and to:~~

- ~~—(1) Lessen congestion in the street;~~
- ~~—(2) Secure safety from fire, panic, storm, hurricane, or other causes;~~
- ~~—(3) Provide adequate light and air;~~
- ~~—(4) Prevent the overcrowding of land;~~
- ~~—(5) Avoid undue concentration of population;~~
- ~~—(6) Provide adequate facilities for transportation, parking, water and sewerage; and~~

~~—(B) For the purpose of promoting health, safety and general welfare of the community and secured safety from fire, storm, hurricane or other causes, all structures shall maintain a twenty five (25) foot setback from the mean high water line of the following:~~

- ~~—(1) Indian River.~~
- ~~—(2) Palm Bay.~~
- ~~—(3) Turkey Creek.~~

~~—(C) In determining the setback requirements for any building proposed to be erected, the setback requirements hereinabove shall be construed as a minimum setback and if a greater setback is required under any of the zoning districts then such greater setback requirement shall be enforced.~~

~~§ 185.116 ERECTION OF MORE THAN ONE (1) PRINCIPAL STRUCTURE ON A LOT.~~

~~—In any district, more than one (1) structure housing a permitted or permissible principal use may be erected on a single lot, except single family residences, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot. In no case shall separation between principal structures be less than twice the required side interior setback.~~

~~§ 185.117 YARD ENCROACHMENTS.~~

~~—Every part of every required setback shall be open and unobstructed from the ground to the sky, except as hereinafter provided or as otherwise permitted in this chapter:~~

~~—(A) Sills or belt courses may project not over eighteen (18) inches into a required yard.~~

~~—(B) Movable awnings may project not over four (4) feet into a required yard, provided that where the yard is less than ten (10) feet in width the projection shall not exceed one-half (½) the width of the yard.~~

~~—(C) Chimneys, fireplaces or pilasters may project not over three (3) feet into a required setback.~~

~~—(D) Fire escapes, stairways, and balconies which are unroofed and unenclosed may project not over five (5) feet into a required rear yard, or not over three (3) feet into a required side yard in any residential district.~~

~~—(E) Overhangs, hoods, canopies or marquees may project not over three (3) feet into a required yard.~~

~~—(F) Fences, walls and hedges shall be permitted in required yards subject to the provisions established herein.~~

~~—(G) Accessory parking may be located in a required front, rear or side yard for a single family and two family dwellings, provided such parking maintain at least a six (6) foot setback from all side interior lot lines and a ten (10) foot setback from, all rear lot lines.~~

~~—(H) Open, unenclosed porches, platforms or paved terraces not covered by a roof or a canopy may extend into the required side yard area not more than six (6) feet, and into the rear yard not more than twelve (12) feet.~~

~~—(I) Other than listed above or specifically provided for in §§ 185.030 et seq. and §§ 185.060 et seq., no required setback area shall be used for any building, driveway, aisle, parking space, back-out area or loading area except that access drives may cross the setback areas.~~

~~§ 185.118 ACCESSORY USES AND STRUCTURES.~~

~~—(A) No accessory structure shall be erected within:~~

~~—(1) Any public drainage and utility easement.~~

~~—(2) Any required front yard setback.~~

~~—(3) Any required side yard setback.~~

~~—(4) Ten (10) feet of any rear property line.~~

~~—(5) No separate or freestanding accessory structure shall be constructed or placed within five (5) feet of any building on the same lot. Accessory structures erected on lots fronting on two (2) streets shall conform to the principal structure setbacks for the side corner yard setback.~~

~~—(B) No accessory structure shall exceed twenty-five (25) feet in height or the height of the principal structure, whichever is least.~~

~~—(C) No accessory building may be erected upon property without the presence of a principal building. In any residential zoning district, no accessory structure shall exceed the size of the principal structure's living area, except that sheds may not exceed fifty percent (50%) of the size of the principal structure's living area. Accessory buildings shall not be used until after the principal structure has been fully constructed and a certificate of occupancy issued. Erection of tents as accessory structures is prohibited.~~

~~—(D) Satellite dish antennae. For the purpose of this chapter, satellite dish antennae are considered an accessory structure and a building permit shall be required when installing, moving or reconstructing a dish antenna. Satellite dish antennae shall meet the following requirements:~~

~~—(1) The satellite dish shall be erected to the rear of the front wall of the principal building and shall also meet the setback requirements listed in this section. The setback of the dish antenna shall be measured from the outermost point of the dish on the side closest to the applicable setback or property line.~~

~~—(2) Roof mounting. Satellite dish antennae may be roof-mounted provided that the twenty-five (25) foot height restriction in single-family residential districts~~

~~and the maximum height limits in commercial, industrial, and multi-family districts are not exceeded. The height of the antenna/dish shall be that distance as measured vertically from the highest point of the dish/antenna, when positioned at its lowest angle for operation, to ground level.~~

~~—(3) No more than one (1) dish antenna shall be located on any record parcel of land zoned for a single-family residential use. No more than two (2) dish antennae shall be permitted for multi-family or commercial uses.~~

~~—(4) Dish antennae located in single family residential districts shall not have a dish which exceeds ten (10) feet in diameter.~~

~~—(E) Metal structures. For the purpose of this chapter, metal accessory structures over three hundred (300) square feet or over twelve (12) feet in height are prohibited in residential zoning districts unless the structure is designed to simulate non-metal construction, is treated with a textured coating on all four (4) sides or is painted to match the color scheme of the primary residence. Metal accessory structures meeting the design standards listed above may be built to the height of the principal structure or twenty-five (25) feet, whichever is less.~~

~~Table A~~

~~Minimum Requirements~~

~~TYPE OF STRUCTURE~~

~~SETBACK REQUIREMENT~~

~~MAX HEIGHT~~

~~Table A~~

~~Minimum Requirements~~

~~TYPE OF STRUCTURE~~

~~SETBACK REQUIREMENT~~

~~MAX HEIGHT~~

~~Carport or detached garage~~

~~Carports shall not be permissible in a front yard.~~

~~REAR: ten feet (10') from any rear property line.~~

~~SIDE: same as the side yard setback of the principal structure.~~

~~Height of the principal structure or twenty-five feet (25'), whichever is less.~~

~~Animal enclosures or cages~~¹

~~REAR: fifteen feet (15')~~

~~SIDE: ten feet (10')~~

~~Six feet (6')~~

~~Metal structures~~

~~Metal structures shall not be erected within side or front yards.~~

~~REAR: ten feet (10') from any rear property line.~~

~~Twelve feet (12')~~

~~OR~~

~~Height of the principal structure or twenty-five feet (25'), whichever is less, for structures meeting design standards.~~

~~Swimming pools, as defined by Chapter 515, Florida Statutes, and associated barriers~~

~~REAR: ten feet (10') from any rear property line.~~

~~SIDE: same as side setback of the principal structure.~~

~~Height of the principal structure or twenty-five feet (25'), whichever is less.~~

~~Satellite dish (ground-mounted)~~

~~Radius of the dish plus five feet (5') for side and rear yard setback.~~

~~Satellite dish~~

~~(ground-mounted)~~

~~Screen room (non-habitable space only)~~

~~REAR: ten feet (10') from any rear property line.~~

~~SIDE: setback same as side setback of the principal structure.~~

~~Height of the principal structure or twenty-five feet (25'), whichever is less.~~

~~Sheds, gazebos, and pergolas over 120 square feet~~

~~REAR: ten feet (10')~~

~~SIDE: six feet (6')~~

~~CORNER LOTS: ten feet (10')~~

~~Height of the principal structure or twenty-five feet (25'), whichever is less~~

~~1Animal cages or enclosures shall be limited in size to fifteen feet (15') in length by ten feet (10') in width.~~

~~§ 185.119 AIR CONDITIONING UNITS.~~

~~—(A) In all residential districts, the exhaust or mechanical part of any air conditioning or heating unit, other than window units, shall be subject to side yard requirements except if such unit faces a street or an alley and is located fifteen (15) feet or more from an adjoining property.~~

~~—(B) In all other districts, the exhaust or mechanical part of any air conditioning unit or heating unit may encroach five (5) feet into the side yard building setback.~~

~~§ 185.120 VISION CLEARANCE AT CORNERS, CURB CUTS AND RAILROAD CROSSINGS.~~

~~—Notwithstanding any part of this chapter or any permit granted, or any variance granted under the provisions of § 169.009, no type of structure, vehicle, tree, planting, vegetation, sign or fence or any type of obstacle or any portion thereof shall be placed or retained in such manner which would create a traffic hazard or would obstruct the vision clearance at corners, curb cuts, or railroad crossings in any zone.~~

~~§ 185.121 EXCEPTIONS TO HEIGHT REGULATIONS.~~

~~—The height limitations contained in §§ 185.030 et seq. and §§ 185.060 et seq. do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.~~

~~§ 185.122 STRUCTURES TO ABUT AN IMPROVED STREET.~~

~~—Every building hereafter erected or moved shall be on a lot abutting an improved street. All lots upon which structures are built shall have a minimum width of fifty (50) feet abutting an improved street, measured at the right-of-way line. Exceptions to this requirement shall be for lots located in an approved planned unit development or for a multi-family townhouse development where units are owned in fee simple and access is provided through dedication of common vehicular and/or pedestrian access ways, provided such common access ways meet the fifty (50) foot requirement. Further, the fifty (50) foot dimension may be reduced for those lots which otherwise meet the district schedule requirements of this chapter~~

~~for minimum lot width. "Improved street" shall mean such streets as defined in Chapter 179 of this code of ordinances.~~

~~§ 185.123 REGULATION OF VEHICLES IN RESIDENTIAL AREAS.~~

~~—(A) Parking vehicles in residential areas. It shall be unlawful for any person, either as agent, owner, occupant, lessee, tenant or otherwise, to park, store, stop, deposit or allow, cause or permit to be parked, stored, stopped, or deposited on any public or private property of the RR, RE, RS-1, RS-2, RS-3, SF-1, SRE, RM-10, RM-15, RM-20, BMUV, RMH or RVP zoning districts.~~

~~—(1) Prohibited Parking:~~

~~—(a) In front of a residence, except within the paved driveway or adjacent to the driveway. A maximum of two (2) operable vehicles (per property) are permitted to be parked on the side of the driveway opposite the front door of the residence.~~

~~—(b) In the rear yard of a residence, unless the rear yard is enclosed by a 6-foot tall opaque fence.~~

~~—(c) Large vehicles; unless parked or stored in an enclosed structure.~~

~~—(d) No vehicle shall be parked or stored upon a vacant parcel of land that does not have a principal structure with valid Certificate of Occupancy issued.~~

~~—(e) No vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled, unless such work is being performed inside a garage or similarly enclosed area designed for such purposes. Painting of vehicles is prohibited unless conducted inside an approved spray booth.~~

~~—(2) Vehicles shall not exceed two (2) on a single side or one (1) on each side. This shall exclude the front and rear of the property.~~

~~—(a) Vehicles parked on the side of a residence located on a corner lot must be screened from the street adjacent to the side of the residence by a 6-foot tall opaque fence.~~

~~—(3) Exceptions. The provisions of this section shall not apply to:~~

~~—(a) Any residential district with current and valid building permit has been issued by the city, as to those vehicles actively engaged in such construction, between the hours of 7:00 a.m. and 9:00 p.m., Monday through Saturday;~~

~~—(b) Lawful and authorized work upon property in a residential district where the vehicle is parked or stopped;~~

~~——(c) The emergency parking of a disabled vehicle in a residential district. However, any such vehicle shall be removed from the residential district within twenty-four (24) hours;~~

~~——(d) Those vehicles parked in a residential district for a period not to exceed eight (8) hours rendering business, commercial or medical services to property at the location where parked or stopped.~~

~~——(e) Farm equipment used in the operation of an agricultural activity shall be exempt from the provisions of this subchapter. The property for which this equipment is exempt shall have a current agricultural exemption from the Brevard County Tax Collector or provide a signed and notarized affidavit that said equipment is for the property owner's personal use. Farm equipment may only be parked/stored on lands that are zoned RR, Rural Residential District or GU, General Use Holding District.~~

~~——(f) Parking recreational vehicles in residential areas. It shall be unlawful for any person to park or store a recreational vehicle in a residential area for longer than twenty-four (24) consecutive hours or forty-eight (48) hours in any one (1) month period, except on residential lots behind the front face of the residence. Recreational vehicles parked on the street side of a corner lot (opposite the side interior property line) must be screened by a 6-foot tall opaque fence. No vehicle shall be used for living, sleeping or housekeeping purposes in any location not approved for such use under the zoning requirements of this chapter. Any such vehicles shall have attached, at all times, a current vehicle registration license plate.~~

~~§ 185.124 MINIMUM WIDTH OF COURTS.~~

~~——The minimum width of a court over ten (10) feet in depth shall be thirty (30) feet for one (1) story buildings, forty (40) feet for two (2) story buildings, fifty (50) feet for three (3) story buildings, and sixty (60) feet for four (4) story buildings. For every five (5) feet of height over forty (40) feet the width of such a court shall be increased by two (2) feet, provided that open unenclosed porches may project into a required court not more than twenty-five percent (25%) of the width of such court. Where a roadway is provided in the court, the width allowed for such roadway shall be in addition to that required hereby.~~

~~§ 185.125 HOME OCCUPATIONS.~~

~~——(A) In a residentially zoned district, a home business tax receipt may be issued when the home is used only as a location for a business telephone, an address for~~

~~business correspondence, and a storage place for business records in conjunction with a principal residential use. A home business tax receipt does not permit or authorize the following:~~

- ~~— (1) Employees, other than members of the immediate family, residing on the premises in the conduct of the home occupation;~~
- ~~— (2) Walk-in or drive-in businesses to the residences;~~
- ~~— (3) Deliveries of business-related products for sale or distribution to the licensee;~~
- ~~— (4) Any off-site advertisement from any street;~~
- ~~— (5) Storage of goods;~~
- ~~— (6) A home occupation occupying an area greater than twenty-five percent (25%) of the first floor living area of the residence;~~
- ~~— (7) Conducting a home occupation in an accessory building; such occupation must be conducted in the main residence of the proprietor.~~
- ~~— (8) Storage of commercial vehicles; vehicles or vessels for hire; mobile food vending trucks/trailers.~~
- ~~— (B) Application for home occupational license.~~

~~— (1) Application for a home business tax receipt shall be made in the same manner as provided for in Chapter 110 of this code of ordinances. However, the Growth Management Director, or designee, shall certify compliance with the requirements of this section after review of the following information submitted by the applicant:~~

- ~~— (a) Name and address of applicant;~~
- ~~— (b) Legal description of property where home occupation is to be conducted;~~
- ~~— (c) A sketch showing the floor plan and total first floor living area of the residence;~~
- ~~— (d) Area of room or rooms to be utilized in the conduct of the home occupation;~~
- ~~— (e) Nature and type of home occupation sought;~~
- ~~— (f) A signed, notarized statement completed by the applicant certifying compliance with the requirements of subsection (A).~~

~~—(C) In a residentially zoned district, a home-based business occupational license may be issued for a business that does not meet all of the criteria identified in subsections (A) and (B) above provided the following criteria are met:~~

~~—(1) The business shall be conducted within the primary residence, use of accessory structures for operation of the business is prohibited.~~

~~—(2) The business shall not change the character of the dwelling or reveal from the exterior that the dwelling is being utilized for conduct of a home-based business.~~

~~—(3) No supplies or equipment shall be used or stored in connection with the business that would create fire or explosion hazards, electrical interference, noise, vibration, glare, fumes or odors detectable to the normal senses on adjacent properties or residential units.~~

~~—(4) Activities conducted and equipment or material used shall not change the fire safety or occupancy classifications of the premises.~~

~~—(5) A business operating under a Cottage Food License is permissible with proof of such license from the governing authority.~~

~~—(6) A licensed firearms dealer may operate within their home, provided a Federal Firearms Permit is valid and secured prior to the business tax receipt application. No on-site storage of ammunition or items related to ammunition reloading, musket ball or muzzle manufacturing or re-loading may be permitted. Transfer of firearms to private individuals may not occur at the property where the home is located.~~

~~—(D) Application for home-based business occupational license.~~

~~—(1) Application for a home-based business tax receipt shall be made in the same manner as provided for in Chapter 110 of this code of ordinances. However, the Growth Management Director, or designee shall certify compliance with the requirements of this section after review of the following information submitted by the applicant:~~

~~—(a) Name and address of applicant;~~

~~—(b) Legal description of property where home occupation is to be conducted;~~

~~—(c) A sketch showing the floor plan and total first floor living area of the residence;~~

~~—(d) Area of room or rooms to be utilized in the conduct of the home occupation;~~

~~—(e) Nature and type of home-based business sought;~~

~~—(f) A signed, notarized statement completed by the applicant certifying compliance with the requirements of subsection (C).~~

~~—(E) Expiration and revocation of license.~~

~~—(1) Business tax receipts for home occupations and/or home-based businesses shall expire as provided in Chapter 110, Palm Bay Code of Ordinances.~~

~~—(2) Business tax receipts for home occupations and/or home-based businesses may be revoked by the Growth Management Director for violation of any criteria established by this section.~~

~~—(F) Appeals for denial or revocation of license.~~

~~—(1) Licenses for home occupations and/or home-based businesses that have been denied by the Growth Management Director, or designee for failure to meet the criteria established in this section may file an appeal of an administrative decision pursuant to § 169.009.~~

~~—(2) Licenses for home occupations and/or home-based businesses that have been revoked by the Growth Management Director for violation of any criteria established by this section may file an appeal of an administrative decision pursuant to § 169.009.~~

~~§ 185.126 BUILDINGS REQUIRED.~~

~~—All commercial uses shall provide at least the minimum size building required for the district in which the use is to be located. The building shall contain plumbing facilities adequate to serve the needs of the customers and employees of the commercial use and must meet all requirements of the plumbing code adopted in Chapter 170 of this code of ordinances.~~

~~§ 185.127 CULVERTS AND CURBING.~~

~~—(A) Within all districts, culverts when required shall be constructed to city specifications and approved prior to the issuance of a certificate of occupancy.~~

~~—(B) Except for single-family and two-family lots, curbing will be required on all curb breaks or driveways. Curbing shall be placed from the property line to the~~

~~edge of the street pavement and shall conform to the city's "Standard Detail for Curbing" and all specifications contained therein.~~

~~§ 185.128 TEMPORARY MOBILE HOMES FOR OFFICE USE.~~

~~—Temporary mobile homes for office use may be permitted as a conditional use in the LI and HI districts subject to the following restrictions:~~

~~—(A) The conditional use shall be granted for a one (1) year period.~~

~~—(B) Temporary mobile homes shall meet all setbacks for the applicable district.~~

~~§ 185.129 MODEL HOMES.~~

~~—(A) Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—ACCESS. A way for prospective purchasers, visitors and prospective customers to get from parking facilities to the model home. Such access shall be forty-four (44) inches wide, and must be either paved in accordance with this code of ordinances or be graded and covered with mulch.~~

~~—BUILDER. Any person, firm, association, syndicate, partnership, corporation, realtor or corporation who constructs model homes and other residential dwellings for sale to the public.~~

~~—BUSINESS OFFICE. Facility consisting of desks, files, phone banks, telephone switchboards, typewriters or other equipment usually associated with and utilized in a business office.~~

~~—BUSINESS TRANSACTION. A business transaction is a transaction between the seller and a potential purchaser other than the signing of a contract of purchase, selection of a lot or house plan, selection of paint colors, selection of cabinets, bathroom fixtures and appliances, and other similar actions by a purchaser in deciding on the purchase of a home.~~

~~—CONTRACTOR. Any person, firm, association, syndicate, partnership, realtor or corporation engaged in the business of accepting orders or contracts, either as a general other residential dwellings for sale to the public.~~

~~—DEVELOPER. Any person, firm, association, syndicate, partnership, corporation, realtor, or any business entity owning, utilizing or developing land for the purpose of constructing model homes and other residential dwellings.~~

~~—MODEL DISPLAY GROUP (i.e., prairie homes/model units). Two or more model homes (see definition of MODEL HOME) each erected or placed on a~~

~~separate single lot that meets the minimum requirements for a parcel in the zoning district in which located, for purposes of promoting sales of units for construction or emplacement elsewhere. The lots used in a model display group must be abutting lots.~~

~~— MODEL HOME. A finished, single-family residential unit, including units in a multi-family structure and mobile homes for which a certificate of occupancy has been obtained, located in a residentially zoned district but utilized as an example of a product offered for sale to purchasers (by a realtor, builder, developer or contractor).~~

~~— (B) Restrictions on use of model home/display homes.~~

~~— (1) Locations: The following shall apply to model homes and model display groups (prairie homes): may be permitted and applied for at locations zoned for RR, RE, RS-1, RS-2, RS-3, SF-1, SF-2, SRE, RM-10, RM-15, RM-20, RMH, PUD, RAC, and Mixed Use.~~

~~— (a) Each home must be located on a single lot. Model units are permitted in any townhouse or multiple-family building.~~

~~— (b) Model homes must be connected to water, sewer and electricity and must receive a certificate of occupancy as a model home only, prior to use as a model.~~

~~— (c) Model homes may be approved only in areas where they will not adversely affect existing residents.~~

~~— (d) Multiple Model Display Groups are permitted in each subdivision plat (see § 184.15).~~

~~— (e) Each model home must otherwise comply with the applicable zoning and sign regulations of the city.~~

~~— (f) Model homes are not required to be constructed with garages, even in districts where such garages would normally be required, provided the following criteria are met:~~

~~— 1. Prior to cessation of the use of the home as a model home, the builder must construct an operational two-car garage door along the front face of the home. This garage door is required to be in place and operational prior to either selling the home or renting the home.~~

~~2. Prior to issuance of a Certificate of Occupancy, the builder must file an affidavit with the Building Division certifying that the requirements of this section will be complied with prior to selling or renting the home for non-model home use.~~

~~(g) Parking: Except when located in a Model Display Group, all parking facilities shall be on a private property. There shall be no paving, surfacing, or laying of any material within any adjoining right-of-way for parking purposes.~~

~~For Model Display Groups:~~

~~1. Parking. Three off-street vehicular parking spaces, including the garage, shall be provided on the site or on an adjacent vacant property.~~

~~2. Off-site parking. Adjacent vacant single-family lot(s) may be used for model home parking. A plan to provide parking on an adjacent parcel shall require ownership by the same or an affidavit of authorization from the property owner as well as a surety deposit payable to the City to convert the property back to a residential or other permitted use when the structure is converted or sold.~~

~~3. An accessible parking space is required and shall count as one of the three required spaces.~~

~~Accessibility requirements shall be met throughout the home, including access per the current Florida Building Code, Accessibility. This shall include handrail and grab bar requirements.~~

~~(2) Prohibited uses.~~

~~(a) No model home or model unit may be used for living purposes either temporarily or permanently while used as a model home or model unit.~~

~~(b) No real estate sales except those incidentals to the sale of model homes, model units or lots within the development may be conducted in a model home or model unit.~~

~~(3) Expiration.~~

~~(a) Sale. The model home permit shall automatically expire upon the sale or transfer of the model home, provided, however, that, if ownership of the model home is transferred to a qualified company, the model home permit may be transferred to the new owner. In the event the model home is sold, and the permit holder leases the model home from the purchaser, the permit holder may continue to operate the model home for the remainder of the permitted term, provided the permit holder is otherwise in compliance with this chapter.~~

~~—(b) Automatic expiration. If the qualified company is not the original permit holder and the qualifying agent resigns or otherwise ceases to serve as the qualifying agent, the permit shall automatically expire and shall not be renewed.~~

~~—(4) Model Homes as a Business office: Model home can be utilized as an example of a product offered for sale to purchasers (by a realtor, builder, developer or contractor. However, a model home unit shall not operate or function as a construction office. The model home shall be used primarily for demonstrating the type of units offered in the subdivision.~~

~~—(5) Garage Office. For any garage being used as an office for a model home the applicant must submit the following with the Building Permit application:~~

~~—(a) Plan of a garage office facility, including false walls, and temporary electrical and plumbing. All accessibility requirements for a business use must be met.~~

~~—(b) Plan should include a block note stating that a Change of Occupancy application will be submitted along with a Building Permit application that details the garage conversion when it is returned to the original use.~~

~~—(c) Ten thousand dollars (\$10,000.00) refundable surety to ensure that the garage is converted back to the FEMA standards for single-family home usage.~~

~~—(6) Model homes on properties zoned under any non-commercial/Industrial District shall comply with the provisions set forth in subsection (1) above except to the extent such provisions are modified by the City Council when the zoning is approved or subsequently amended.~~

~~—(C) Time for bringing noncomplying use into conformance. Any model home not in compliance with the provisions of this section shall be brought into compliance with these provisions within sixty (60) days of the effective date of this section. Thereafter, violations of the provisions of this section shall be presented to the Code Enforcement Board as provided by law.~~

~~§ 185.130 ACCESS TO COMMERCIAL AND INDUSTRIAL LAND.~~

~~—(A) No public or private street, road, easement or driveway within a residential area or on which residentially zoned land abuts shall be used as vehicular access or as a through road to any commercially or industrially zoned land, uses or businesses and no lot shall be created, building permit issued nor curb cut or driveway permitted or approved that will allow or create access to any commercially or industrially zoned land or uses through a residential area except:~~

~~—(1) Access onto collector arterial roads.~~

~~—(2) Access to corner lots at intersections of any street with a collector or arterial road.~~

~~—(3) For emergency ingress or egress where access is physically controlled and used only for emergency evacuation or access.~~

~~—(4) Access to existing commercially or industrially zoned land or uses in existence at the time of adoption of this section that have no alternative means of ingress or egress to an existing public or private street.~~

~~—(B) Definition. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—RESIDENTIAL AREA. Any lot, street, right-of-way or land zoned as any of the various districts within this chapter and any other applicable ordinance of the city that allow any residential use as a principal or permitted use.~~

~~§ 185.131 LIMITATIONS ON THE NUMBER OF DOGS KEPT WITHIN RESIDENTIAL ZONING DISTRICTS.~~

~~—(A) No person shall keep or maintain in, on or upon any lot, building, premises or property more than four dogs per dwelling unit. A dog shall be considered any canine six months in age or older. This section shall apply to all lands within the RE, RS-1, RS-2, RS-3, SF-1, SF-2, SRE, RM-10, RM-15, RM-20, RMH or PUD Zoning Districts.~~

~~—(B) All persons who own or keep more than four dogs as of the effective date of this section must either come into compliance with the section or obtain a certificate authorizing such person to temporarily keep such greater number within 90 days. Once obtained, said certificate shall only remain valid until the number of dogs owned or kept is reduced to four or less, at which time said certificate shall expire. No additional dogs can be added to those already registered to replace any dog that shall be given away, sold or that dies. There shall be only one valid certificate per residential dwelling unit at any time. If the holder of a certificate moves to another dwelling unit within the city, the holder of the certificate must notify the city and request the transfer of the certificate. Failure to transfer a certificate within 30 days of moving shall make the certificate void. If the holder of a certificate moves out of the city, the certificate shall immediately become void.~~

~~—(C) Application for a certificate shall be made on a form provided by the city and submitted to the Palm Bay Code Compliance Division. In order to obtain a~~

~~certificate, applicants must provide the following information and documentation on all dogs owned or kept by the applicant:~~

- ~~— (1) Dog license and certificate of inoculation for rabies, issued prior to the passage of this section, for each dog.~~
- ~~— (2) Complete physical description of all dogs owned or kept by the applicant, including age, weight, color and name; and~~
- ~~— (3) Photograph of all dogs owned or kept by the applicant.~~

~~§ 185.132 CONVERSION OF GARAGE(S) TO LIVING AREA.~~

~~— Existing garage(s) may be converted to living area provided the following criteria are met:~~

- ~~— (A) The garage(s) are attached to the principal structure.~~
- ~~— (B) The living area created must be directly accessible from the living area in the principal home.~~
- ~~— (C) All building codes, fire codes and other provisions of the code of ordinances must be met.~~

~~§ 185.133 TEMPORARY STORAGE UNITS IN RESIDENTIAL AREAS.~~

~~— (A) Definitions.~~

~~— RESIDENTIAL AREAS. Any land zoned RR, RE, SRE, RS-1, RS-2, RS-3, SF-1, SF-2, RMH, RM-10, RM-15, RM-20, PUD and single family and multiple family uses in the BMUV District.~~

~~— TEMPORARY STORAGE UNIT. Portable storage containers typically utilized temporarily for the storage of furniture, clothing, or other personal belongings, as part of the process of household moving and/or as part of a household's intent to store items offsite at a commercial storage location. This definition does not include storage units authorized by the Florida Building Code pursuant to Fla. Stat. § 553.73.~~

~~— (B) Allowable use. Temporary storage units are allowable in residential areas without a permit provided the following criteria are met:~~

- ~~— (1) A maximum of one (1) temporary storage unit is permitted per lot;~~
- ~~— (2) The maximum size of the temporary storage unit is ten (10) feet wide, twenty four (24) feet long, and nine (9) feet high;~~

~~—(3) The maximum time a temporary storage unit is permitted to remain on the lot is fourteen (14) consecutive days with a maximum of two (2) placements permitted per year;~~

~~—(4) The temporary storage unit shall not be placed in any right-of-way or easement and shall not create a site obstruction for any vehicular or pedestrian traffic;~~

~~—(5) The temporary storage unit shall not be utilized for the storage of live animals;~~

~~—(6) The temporary storage unit shall not be utilized for human habitation;~~

~~—(7) The temporary storage unit shall not be utilized for the storage of hazardous or flammable materials;~~

~~—(8) Advertising is prohibited on the temporary storage unit with the exception of the name and phone number of the vendor of the unit; and~~

~~—(9) Notice is provided to the city by the vendor, on forms provided by the city, identifying the location and time of placement of the temporary storage unit.~~

~~—(C) Use requiring permits. The City Manager, or his designee, may grant one (1) extension to the time limit established in subsection (B) above, subject to the following criteria:~~

~~—(1) A maximum of one (1) fourteen (14) day extension per lot may be granted during any calendar year;~~

~~—(2) A permit shall be required for the fourteen (14) day extension beyond the fourteen (14) day period permitted in subsection (B); and such permit shall be accompanied by a fee as established by resolution pursuant to § 169.004; and~~

~~—(3) The applicant must affix to a placard, issued at the time of permitting and clearly visible from the nearest roadway, to the temporary storage unit which provides information identifying the placement date, date of required removal, and the number to report violations to the Code Compliance Division.~~

~~—(D) Exemptions. The above regulations shall not apply to temporary storage units that are placed for construction purposes in connection with a valid building permit or during any period of declared emergency by federal, state or local official action.~~

~~§ 185.134 ARCHITECTURAL STYLE REQUIREMENTS.~~

~~—(A) Structures must adhere to one (1) of the following Architectural Styles for architectural elevations facing public rights-of-way within the NC, CC, HC, RC, and OP zoning districts, and for structures constructed on a lot fronting any arterial or collector roadways in the GC zoning district. All structures that are in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site for the purpose of creating an outdoor public space. These areas are inclusive of benches, sitting areas, bicycle racks, display fountains and/or landscaping.~~

~~—(1) Florida Vernacular Architectural Style.~~

~~—(a) Masonry or frame construction.~~

~~—(b) Stuck stucco or lap siding finish.~~

~~—(c) Brick wainscot.~~

~~—(d) Architectural shingles or galvalume metal roof acceptable.~~

~~—(e) Exposed lookouts at truss ends, dentil molding, operable shutters that match the window width, period style lighting.~~

~~—(f) Limited color palette to pastel colors or white.~~

~~—(g) A front porch or overhang that has a minimum of sixty inches (60") width and encompasses a minimum of fifty percent (50%) of the main building façade.~~

~~—(h) No blank wall area to exceed four hundred (400) square feet of area.~~

~~—(i) No singular façade shall exceed one hundred (100) lineal feet of run without a minimum sixteen-inch (16") break, by utilizing a directional or material change.~~

~~—(j) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to is not permitted. No part of the exterior finish shall utilize metal cladding.~~

~~—(k) All structures in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site of the main floor shall be utilized for the creation of an outdoor public space — these areas are inclusive of benches, sitting areas, bicycle racks, bus stops, display fountains and/or landscaping.~~

~~—(2) Mediterranean/Spanish Colonial.~~

~~—(a) Masonry or frame construction.~~

~~—(b) Heavy stucco or concrete finish.~~

~~—(c) Barrel vaulted elements over windows and doors.~~

- ~~—— (d) Flat or low hip roof lines with interlocking terra-cotta roof tile.~~
- ~~—— (e) Terra cotta detailing, quoins, metalwork around windows and doors, relief around cornices, parapets, balconies and balustrades.~~
- ~~—— (f) Limited color palette of white, parchment and coral colors.~~
- ~~—— (g) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to is not permitted. No part of the exterior finish shall utilize metal cladding.~~
- ~~—— (h) All structures in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site for the creation of an outdoor public space — these areas are inclusive of benches, sitting areas, bicycle racks, bus stops, display fountains and/or landscaping. Structures that exceed fifty thousand (50,000) square feet of the area on the main floor shall provide an area on the site equivalent to three percent (3%) of the main floor area for an outdoor public space.~~
- ~~—— (3) Spanish Revival.~~
 - ~~—— (a) Masonry or frame construction.~~
 - ~~—— (b) Heavy stucco or masonry finish.~~
 - ~~—— (c) Barrel arch over windows and doors.~~
 - ~~—— (d) Flat, gable and/or hip roof lines with interlocking barrel style roof tile.~~
 - ~~—— (e) Iron work around windows.~~
 - ~~—— (f) Trim work around doors, parapets, windows and entryways.~~
 - ~~—— (g) Color palette of white or the patina of the masonry.~~
 - ~~—— (h) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to is not permitted. No part of the exterior finish shall utilize metal cladding.~~
 - ~~—— (i) All structures in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site for the creation of an outdoor public space — these areas are inclusive of benches, sitting areas, bicycle racks, bus stops, display fountains and/or landscaping.~~
- ~~—— (4) Commercial American.~~
 - ~~—— (a) Traversable arcade of fabric awning or structural roof.~~
 - ~~—— (b) Recessed entryway and string course over storefront.~~

- ~~—— (c) Flat or low slope roof.~~
- ~~—— (d) Parapet with minor course banding and/or cornice.~~
- ~~—— (e) Concrete or brick construction.~~
- ~~—— (f) Large fixed plate glass storefront windows.~~
- ~~—— (g) Minor trim or fretwork.~~
- ~~—— (h) Color palette typically reflects the base material (brick) or lighter colors.~~
- ~~—— (i) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to is not permitted. No part of the exterior finish shall utilize metal cladding.~~
- ~~—— (j) All structures in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site for the creation of an outdoor public space — these areas are inclusive of benches, sitting areas, bicycle racks, bus stops, display fountains and/or landscaping.~~
- ~~—— (5) Bungalow.~~
 - ~~—— (a) Brick or concrete wainscot or base.~~
 - ~~—— (b) Gable roof line with exposed rafters and secondary rooflines.~~
 - ~~—— (c) Decorative shake or shingle roof or metal roof.~~
 - ~~—— (d) Horizontal siding.~~
 - ~~—— (e) Tapered columns.~~
 - ~~—— (f) Exposed structural elements for detailing such as beams, ridge vents, rafters and purlins.~~
 - ~~—— (g) Useable front porch.~~
 - ~~—— (h) Color palette may vary.~~
 - ~~—— (i) Pre-engineered metal buildings or metal buildings that utilize a fastened metal horizontal girder by which an exterior wall is attached to is not permitted. No part of the exterior finish shall utilize metal cladding.~~
 - ~~—— (j) All structures in excess of five thousand (5,000) square feet of area on the main floor shall provide an area on the site for the creation of an outdoor public space — these areas are inclusive of benches, sitting areas, bicycle racks, bus stops, display fountains and/or landscaping.~~
- ~~—— (B) The predominant exterior color shall be applied to all sides of the structure.~~

~~—(C) The design requirements listed in subsections (A) and (B) above shall be applicable to all new construction in the district, and in the case of additions or renovations to, or development of, an existing building or project, where the renovation or redevelopment exceeds fifty percent (50%) of the square footage of the existing structure(s). A mirror building, defined as a building meant to compliment a pre-existing structure by use of identical material finishes, scale and form, shall be exempt from the design requirements. New buildings that are part of an overall campus plan that has an established architectural theme shall also be exempt from the design requirements herein.~~

~~—(D) The design requirements listed in subsections (A) and (B) above shall be applicable to all accessory buildings also. Any accessory structure not meeting this requirement shall be screened so as to not be visible from the public right-of-way. Mechanical equipment such as gasoline pumps, air and vacuum machines, drive-through menu boards and speaker stations, drive-through teller stations, ATM's, and similar appliances which require direct access by the public shall be exempt from the design review requirements of this subsection. All HVAC, wireless communication devices, Fire Suppression, Solar Panels, wind generation devices and similar equipment placed on any roof or above the roof line of any commercial structure shall be effectively screened as to not be seen by the public.~~

~~—(E) Compliance with the requirements set forth in this subsection shall be demonstrated by submittal of building front elevations and color and material samples at the time of site plan review.~~

~~—(F) Structures in the following use categories are exempt from the design review requirements of this subsection: public utility equipment, hospitals, churches, model home centers and buildings having federal, state or locally designated historical status.~~

~~—(G) The Sign Code shall be adhered to with the following exceptions:~~

~~—(1) Materials: The color, construction, and material of each sign shall be compatible with the architecture on the site.~~

~~—(2) Design: Every sign frame or support shall be designed as a sympathetic architectural element of the building(s) to which it is principally related.~~

~~—(3) Freestanding signs shall have landscaping at the base that is a minimum width of the sign above.~~

~~— (4) Freestanding signs over twenty-five (25) feet in height shall be exempt from the design review requirements of this subsection but will require landscaping at the base of each sign that is a minimum width of the sign above.~~

~~— (H) Alternative Architectural Styles.~~

~~— (1) The intent of City Council is that commercial structures adhere to the Architectural Style Requirements as described above during the administrative site plan review process for the city. The appeals process described below is intended to provide relief from those provisions only in unusual and unique circumstances. This subsection describes an alternative process for Architectural Styles that do not conform to the style requirements of subsections (A) through (G) above.~~

~~— (a) Alternative Architectural Styles. When an applicant proposes an architectural style that does not conform to subsections (A) through (G) above, the applicant may pursue an Architectural Style Exception through the Growth Management Director for a final administrative decision. The exception shall be in the form of a letter indicating the reasons for the request and the applicant's opinion of their adherence to the requirements. In rendering the final decision, the Growth Management Director shall take into account the overall level to which the architectural design complies with the requirements. If the applicant is not satisfied with the Final Administrative Decision, they may appeal that decision pursuant to § 59.04(6).~~

~~— (I) Appeals.~~

~~— (1) Applicants who desire to appeal the decision of the Growth Management Director, shall file a written appeal to the Palm Bay City Council pursuant to this subsection.~~

~~— (2) The City Council shall hold a minimum of one (1) public hearing in accordance with Chapter 59 to consider the appeal. The decision of Council shall be based upon the following:~~

~~— (a) The level to which the plans exceed the minimum requirements of the Palm Bay Code of Ordinances.~~

~~— (b) The economic impact to the local tax base of the City.~~

~~— (c) The impact of the project on other properties within the City.~~

~~— (d) Adherence to corporate branding.~~

~~— The City Council's decision shall be considered the final City action on the matter.~~

~~—(3) Prior to the public hearing required above, city staff shall prepare a report to Council that describes how the submitted site and architectural plans adhere to the Code, the requested exception, and the justification for the Final Administrative Decision.~~

~~§ 185.135 GREEN DEVELOPMENT PROGRAM STANDARDS.~~

~~—(A) The City Council may approve Green Development Program projects as part of the Planned Unit Development process contained in this Code regardless of project size (no minimum size for submittal of the Planned Unit Development District application). All other criteria of the Planned Unit Development District approval requirements must be met.~~

~~§ 185.136 BACKYARD CHICKENS.~~

~~—(A) No person shall keep or maintain in, on or upon any lot, building, premises or property any farm animal in any zoning category outside of the RR and GU districts except as provided for in this section or § 185.137.~~

~~—(B) Up to four (4) chickens may be kept on single family lots in the RE, RS-1, RS-2, RS-3, SF-1, SF-2 and SRE Zoning Districts subject to adherence to the following criteria:~~

~~—(1) Hens only may be kept. Roosters are prohibited.~~

~~—(2) Chickens must be caged at all times and cages/coops shall meet the criteria for animal cages and enclosures contained in § 185.118(F).~~

~~—(3) Breeding of chickens is prohibited.~~

~~—(4) Dead chickens shall be immediately removed from the premises and disposed of properly.~~

~~—(5) The cage/coop and surrounding areas shall be clean and properly maintained to avoid the attraction of vermin, insects or predators.~~

~~§ 185.137 PIGEONS.~~

~~—(A) No person shall keep or maintain in, on or upon any lot, building, premises or property any farm animal in any zoning category outside of the RR and GU districts except as provided for in this section or § 185.136.~~

~~—(B) Pigeons may be kept on single family lots in the RE, RS-1, RS-2, RS-3, SF-1, SF-2 and SRE Zoning Districts subject to adherence to the following criteria:~~

- ~~— (1) The keeping of pigeons is allowed in the RE, RS-1, RS-2, RS-3, SF-1, SF-2 and SRE Zoning Districts as an accessory use.~~
- ~~— (2) A maximum of one hundred (100) pigeons may be kept on a parcel containing at least one (1) primary structure.~~
- ~~— (3) Restrictions on flights.~~
 - ~~— (a) Maximum number to be released. No more than forty (40) pigeons may be released at any one time for exercise or training purposes.~~
 - ~~— (b) Maximum number of flights per twenty-four (24) hour period. No more than two (2) flights shall be allowed within a twenty-four (24) hour period.~~
 - ~~— (c) Pigeons shall only be released to fly between the hours of sunrise to sunset. When pigeons have been released from a distant location, they shall be allowed to fly into their home aviary upon their return regardless of which day or time of day.~~
- ~~— (4) Enclosure requirements. Pigeon Aviaries shall meet the provisions of § 185.118 ACCESSORY STRUCTURES, Subparagraph (F), Animal Cages or Enclosures.~~
- ~~— (5) Aviary Maintenance and Cleaning Requirements:~~
 - ~~— (a) Structures where pigeons are housed shall be kept and maintained in a sanitary condition. Refuse and droppings shall be removed from the premises at least twice each calendar week. No aviary or loft shall create a nuisance onto adjacent properties.~~
 - ~~— (b) The owner shall comply with the rules and regulations of the Brevard County Health Department and/or Animal Control pertaining to the sanitary conditions and maintenance of the premises.~~
 - ~~— (c) The owner or person in charge of keeping the pigeon aviary shall maintain the property and all features of the property, including roofs, driveways and walkways in a clean manner, void of any visible pigeon droppings.~~
 - ~~— (d) Pigeons shall not be allowed to land or perch on the structures or property of others. Birds shall be trained not to land anywhere except on the landing board to the loft within four (4) weeks after the pigeon is first let out of the loft (first flight). The landing board shall be constructed in such a manner that allows for the entire flying flock to land at the loft at one time. The minimum loft size shall be regulated to a minimum of one (1) square foot per bird.~~

~~—— (e) Pigeon businesses or breeding activities for commercial purposes shall not be conducted in the RE, RS-1, RS-2, RS-3, SF-1, SF-2 and SRE Zoning Districts.~~

~~—— (f) No training flight shall occur two (2) hours before sunset or sunrise, and that training flights not be conducted until four (4) hours after the feeding of birds.~~

~~—— (g) Any bird that is deemed diseased shall be removed from the loft and from the premises immediately.~~

~~§ 185.138 MOBILE VENDING UNITS.~~

~~—— (A) Purpose and intent. The purpose and intent of this section are to establish land use and zoning regulations for real property upon which a mobile vendor is authorized to operate within the jurisdictional limits of the City. This section is neither intended to prohibit mobile food dispensing vehicles from operating within the entirety of the city nor regulate the licensing, registration, permitting, and fees of mobile food dispensing vehicles preempted by the state under F.S. § 509.102.~~

~~—— (B) Definitions. As used in this section, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended.~~

~~—— ACCESSORY. Clearly incidental or subordinate to and customary in connection with the principal building or use on a developed site and which is located on the same lot or parcel with such principal building or use.~~

~~—— FOOD. All substances commonly used for human consumption as food, beverage, confectionery, or condiments, whether simple, mixed, or compound, and all substances or ingredients used in preparation thereof.~~

~~—— MOBILE FOOD DISPENSING VEHICLE. A mobile vending unit defined by F.S. § 509.102(1), and upon the effective date of this Section means any vehicle that is a public food service establishment and that is self-propelled or otherwise moveable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.~~

~~—— MOBILE VENDING UNIT.~~

~~—— (a) A motorized vehicle from which a mobile vendor offers for sale or sells goods or services to the public, such as a "food truck defined in § 185.006";~~

~~—— (b) A mobile food dispensing vehicle;~~

~~— (c) A "vending cart" is defined as a pushcart-type vehicle propelled by human power which has been specifically designed or used for purposes of offering for sale or selling goods or services to the public, but not including, by way of example, racks, wheelbarrows, dollies, grocery carts, baby carriages, tables, chairs, benches, cabinets, or other furniture and boxes, buckets, tubs, or other containers or devices which normally rest on the ground, whether or not wheels have been attached such as "hot dog cart";~~

~~— (d) A trailer that is pulled by a motorized vehicle and has no power to move on its own from which a mobile vender offers for sale or sells goods or services to the public such as a "mobile catering kitchen" or a "food truck"; or~~

~~— (e) Any other mobile device approved by the City Manager from which a mobile vendor offers for sale or sells goods or services to the public.~~

~~— MOBILE VENDOR (i.e., mobile food vendors defined in § 185.006). Any person that sells or offers for sale services or goods from a mobile vending unit (not limited to mobile food dispensing vehicle as defined per F.S. § 509.102) within the City. References in this section to mobile vendors shall include operators of mobile food dispensing vehicles unless expressly stated otherwise.~~

~~— SPECIAL EVENT. Any sale, grand opening, photo shoot, party, holiday celebration, bazaar, concert or other performance, fair, carnival, tent revival, fundraising event, art festival, race, tour, rally, parade, bicycle run, demonstration, contest, exhibition, block party, outdoor display or similar event or occurrence, including the use of tents, or other devices or structures to conduct, advertise or promote any such event occurring on the city or non-city owned lands or in a public right of way such as a public or non-public street, shared use path, or other public place or building, parking lot, vacant lot, where the event would substantially inhibit the usual flow of pedestrian or vehicular travel or which occupies any public area or building so as to preempt use of the said area by the general public for its intended use or which deviates from the established use of said area or building, but such term does not include the following:~~

~~— (a) An event or function held within or on the grounds of a private residence or on the common areas of multifamily residential development, and which event or function is of private and nonprofit nature; or~~

~~— (b) Any use or activity specifically approved by a development permit issued by the city or specifically permitted by the Land Development Code.~~

~~—(C) Specific requirements. Mobile vendors not in compliance with the requirements of this section are prohibited and unlawful in the city. Mobile vendors shall be permitted under the following conditions:~~

~~—(1) The mobile vendor, especially mobile food vendors, such as food trucks, shall provide copies of all applicable approvals and licenses and mobile food establishment permit for their mobile food dispensing vehicle from the State of Florida Department of Business and Professional Regulations (DBPR), Florida Department of Health, and Florida Department of Agriculture and Consumer Services.~~

~~—(a) Food permits aren't necessary for other mobile vending, not regulated by DBPR, such as pet grooming, and selling vegetables and fruits.~~

~~—(2) All mobile vendors shall obtain a City of Palm Bay Business Tax Receipt for operating within the city limits.~~

~~—(a) State-licensed mobile food dispensing vehicles are exempted from the local Business Tax Receipt (see F.S. § 509.102).~~

~~—(3) Mobile vendors providing services via a mobile vending unit by appointment at a customer's place of business or residence shall be permitted in the City, which shall include:~~

~~—(a) Mobile pet grooming, car detailing, and similar services; and~~

~~—(b) Mobile caterers who are hired for private catering purposes to serve guests of a catered event, so long as:~~

~~—1. The mobile caterer is parked entirely on private property;~~

~~—2. Service is limited to the guests of the catered event only; and~~

~~—3. No payment transaction shall occur for individual orders taken by the mobile caterer.~~

~~—(4) Mobile vendors providing services or selling goods via a mobile vending unit at a public special event shall be authorized to operate in the City pursuant to the issued special event permit.~~

~~—(5) Mobile vendors providing services or selling goods via a mobile vending unit on private property shall not be permitted unless the property owner obtains a site plan authorizing accessory mobile vending sales on the property. In no case shall a mobile vendor be permitted to operate on the same parcel of real property~~

~~for more than sixty (60) total consecutive or nonconsecutive days per calendar year.~~

~~— (6) The mobile vendor (i.e., food trucks and food vending vehicles) shall contact your local fire safety authority to ensure your establishment meets the fire safety requirements as prescribed by the National Fire Prevention Association Standards (NFPA). The Local Fire Department shall ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes. Mobile vendors shall make their vehicles available for inspection by the City of Palm Bay Fire Department at a location determined by the Fire Department.~~

~~— (D) Mobile vendors operating a mobile vending unit including food trucks are prohibited under the following conditions:~~

~~— (1) Municipally owned property, sidewalks, rights-of-way, easements, and in alleys, loading zone, or no parking zone. Except during city-organized events or as authorized by a public special event permit.~~

~~— (2) Operating in a fire lane or blocking fire hydrants or any other fire protection devices and equipment, or Americans with Disabilities Act (ADA) accessible parking spaces and/or accessible ramps.~~

~~— (3) To remove the wheels of a mobile vending unit.~~

~~— (4) To operate on unimproved surfaces and abandoned or vacant business locations.~~

~~— (5) No more than one (1) mobile vending unit shall be parked or in operation on a single property at any given time, except during public or private special events and city-organized events, or on approved site plans.~~

~~— (6) To locate within fifty (50) feet of any flammable combustible liquid or gas storage and dispensing structure.~~

~~— (7) To be located within fifty (50) feet of a single-family, multifamily residential lot unless separated and screened by a minimum six (6) foot high opaque wall.~~

~~— (8) To be located within ten (10) feet of any building, or structure.~~

~~— (9) The operation of a mobile vending unit must not obstruct or interfere with vehicular or pedestrian traffic, building access, fire lanes, crosswalks, driveways, fire hydrants, loading areas, stormwater drainage systems, or landscape buffers associated with the principal use. Specifically, mobile vending units must not enter or park upon any "no parking" area, loading zone, driveway, handicapped parking space, or designated public safety lane (e. g., fire lanes) or within twenty (20) feet~~

~~of a crosswalk or within fifteen (15) feet of a fire hydrant or storm drainage structure.~~

~~—(10) In addition to the location of the mobile vendor (especially for food trucks):~~

~~—(a) Mobile vendors are prohibited from serving food from a free-standing barbeque grill or fryer.~~

~~—(b) Selling or distributing alcoholic beverages.~~

~~—(c) Size. No food truck shall exceed a length of eighteen and one-half (18.5) feet or a width of ten feet, and shall not occupy required parking but can be used in excess parking areas of a business.~~

~~—(d) For outdoor dining, one (1) ten (10) foot by ten (10) foot area, covered or uncovered, may be permitted to accommodate seating and tables per mobile food truck.~~

~~—1. Outdoor dining areas including, but not limited to, tables, chairs, booths, bar stools, benches, and standup counters shall only be permitted if expressly authorized in a site plan or a special event permit.~~

~~—2. No tables, chairs or other furniture or equipment intended to provide accommodations for the patrons of mobile food vendors may be placed in the public right of way.~~

~~—3. Any canopies, awnings, or any other attachments must be supported entirely by the mobile vending unit and may not touch the ground.~~

~~—(E) General requirements.~~

~~—(1) The mobile vending unit must be self-contained and may not connect to city water or power during operation while located on public right of way.~~

~~—(2) Mobile vendors may not operate in a stationary manner for more than twelve (12) consecutive hours.~~

~~—(3) Mobile vendors shall be permitted to operate between the hours of 6:00 a.m. and 2:00 a.m., except as permitted by a city-sanctioned event or activity.~~

~~—(4) All mobile vendors must ensure that individuals with disabilities have comparable access to mobile vending units. If existing designs cannot be modified to be accessible to people with disabilities, the method of providing service must be modified to become accessible. No object shall block any pedestrian pathway or ADA access.~~

~~— (5) Selling or dispensing food to customers in a moving vehicle or otherwise engaging in drive-up sales is prohibited from a mobile food dispensing vehicle.~~

~~— (6) Mobile food vendors shall remove all waste and trash prior to vacating their location. Under no circumstances mobile food dispensing vehicles must not discharge waste, fat, oil, grease, or other similar substances from the vehicle. All such substances related to or generated from the vehicle shall be taken with the vehicle when the vehicle leaves the subject property.~~

~~— (7) The grounds around the mobile vending unit and within the vending space shall be kept free of litter, trash, paper, and waste at all time. Waste containers shall be provided, and all trash shall be taken with the vehicle when the vendor leaves or, with the permission of the property owner, placed inside a commercial dumpster in use and located on the site. Waste containers shall be weighted or otherwise secured in an upright position. The mobile vendor is responsible for containing and properly disposing of all solid waste and wastewater pursuant to local and state rules, regulations, and laws.~~

~~— (8) No signs or signage, other than that which can be contained on the mobile vending unit and one sandwich board sign, of no more than twelve (12) square feet in area, shall be permitted, which may not be placed in such a manner as to interfere with pedestrian facilities or the right of way. Signs may not extend above the mobile vending unit.~~

~~— (9) Amplified music or other sounds from any mobile vending unit or from audio equipment installed on the developed site by the property owner or person in charge of the mobile vending unit for purposes of vending, attracting, or encouraging the congregation of customers shall be prohibited.~~

~~— (10) The mobile vendor must comply with the noise provision of the City Code. Portable generators must be securely affixed to the unit during operation. Generators may not exceed a rating of sixty (60) dBA pursuant to industry standard measurements. Idling of a mobile vending unit is prohibited while preparing or serving food. Exhaust from a generator and all mobile vending operations, including food preparation, must be directed away from the service window and adjacent sidewalk.~~

~~— (11) The mobile vendor may not use any flashing or blinking lights or strobe lights. The mobile vendor may provide localized lighting on or in the mobile vending unit for the purpose of illuminating the customer ordering area to ensure customer~~

~~safety, for the purpose of food preparation, and for the purpose of menu illumination.~~

~~—(F) Penalties.~~

~~—(1) Owners and operators of mobile vending units, and property owners on which such units operate, shall be joint and severally liable for any violations.~~

~~—(2) If at any time the Florida Department of Business and Professional Regulation or Florida Department of Health revokes or suspends the mobile vendor's license, the city's mobile food truck permit shall be deemed to have been simultaneously revoked or suspended.~~

~~—(3) In addition to the penalties authorized by (F)(1) and (F)(2), the City Manager may also suspend or revoke the property owner's site plan approval for accessory mobile vending use and/or special event permit, as may be applicable, upon a finding that a mobile vending unit was operating on the subject property in violation of this section. If revoked, the property owner shall be prohibited from seeking subsequent site plan approval for accessory outdoor sales or a special event permit for the subject property for a period of one (1) year from the date of the revocation.~~

~~§ 185.139 OUTDOOR DINING.~~

~~—An outdoor seating and/or dining area is an allowable use when such use is in conjunction with a licensed food or eating establishment. The outdoor seating and/or dining area shall be identified on an approved site plan that demonstrates the following conditions are met:~~

~~—(A) An outdoor seating and/or dining area is restricted to an area within the boundary lines of the property for which the licensed food or eating establishment is located.~~

~~—(B) The outdoor dining area shall be aesthetically and architecturally pleasing and in alignment with the architectural style requirements.~~

~~—(C) An outdoor seating and/or dining area must be clearly delineated on the site plan. Any such area which abuts a parking area shall have a protective buffer in the form of planters, decorative fencing, and/or hedges.~~

~~—(D) The number of outdoor seats provided by a restaurant shall be counted as part of the restaurants total allowable dining allotment and shall be shown on an approved site plan. All outdoor seating and/or dining furniture and associated lighting shall be contained within the defined area on the site plan.~~

- ~~—(E) Outdoor seats shall not cause a licensed restaurant's required parking to become inadequate.~~
- ~~—(F) Outdoor dining areas shall not encroach upon any public right-of-way, public easements, or setbacks.~~
- ~~—(G) Outdoor dining shall not be placed within five feet of bus stops, loading zones, fire hydrants, site triangles, above ground public utilities, bike racks or any type of public street furniture.~~
- ~~—(H) Private sidewalks that abut restaurants may be used for such outdoor seating and/or dining area, provided that there is a five-foot pedestrian clear zone, which shall be maintained at all times.~~
- ~~—(I) No outdoor seating and/or dining furniture shall be allowed within five (5) feet of a pedestrian crosswalk.~~
- ~~—(J) All kitchen equipment used to service the outdoor dining area shall be located within a building.~~
- ~~—(K) All outdoor dining furniture, including all accessory appurtenances including but not limited to approved space heaters, misters, and portable umbrellas that are located within the outdoor dining area shall be stored inside a building after close of business.~~
- ~~—(L) No outdoor dining furniture shall be attached, chained or in any manner affixed to any tree, post, sign, or other fixtures.~~
- ~~—(M) Outdoor food service will terminate no later than 10:00 p.m. on weekdays (Monday through Thursday) and 11:00 p.m. on weekends (Friday through Sunday).~~
- ~~—(N) The serving or consumption of alcoholic beverages within an outdoor dining area shall comply with the regulations of applicable government agencies.~~
- ~~—(O) Outdoor seating and/or dining areas must be maintained in a neat and orderly appearance at all times and must be cleared of all trash and debris on a periodic basis during the day and at the close of each business day.~~
- ~~—(P) If found to be necessary for the protection of the health, safety, and welfare of the public, the City Manager or his/her designee may require the subject property to immediately remove or relocate all or part of the tables, chairs, etc. of the outdoor seating and/or dining area.~~

~~—(Q) This section shall not apply to outdoor dining areas that are depicted on site plans approved prior to July 1, 2023.~~

~~OFF-STREET PARKING AND LOADING REQUIREMENTS~~

~~§ 185.140 OFF-STREET PARKING AND TRAFFIC CIRCULATION.~~

~~—In all districts, off-street parking shall be provided as follows:~~

~~—(A) Purpose and intent. The purpose and intent of this section is to set forth parking requirements in proportion to the parking demand for each use in order to ensure functionally adequate, efficient, aesthetically pleasing, and secure off-street parking facilities, and to provide for on-street parking in certain circumstances. The regulations and design standards of this section are intended to ensure the usefulness of parking facilities, protect the public safety, and mitigate potential adverse land use impacts.~~

~~—(B) Applicability.~~

~~—(1) Development. Every development, as defined in the City of Palm Bay Code, Title XVII Land Development Code, established after the effective date of this section shall comply with the requirements set forth.~~

~~—(2) Residential districts.~~

~~—(a) Parking in driveways. Driveways may be used to satisfy the parking requirements for single-family dwellings, duplexes and mobile homes provided that sufficient space is available exclusive of right-of-way or road easements.~~

~~—(b) Commercial vehicle parking or storage. No required parking space shall be used for a commercial vehicle for parking or storage or other uses which may interfere with normal off-street parking needs. A commercial vehicle is any truck, bus, trailer, portable equipment, machinery or similar vehicle or combination thereof, used or intended to be used for any commercial enterprise or business purpose, or which has over six (6) wheels, more than two (2) axles, a height greater than eight (8) feet and has an overall length of more than twenty-two (22) feet, excluding self-propelled roadway vehicles less than six thousand (6,000) pounds net weight.~~

~~—(c) Emergency vehicles. Parking shall not be permitted which blocks emergency vehicles on either public or private roads.~~

~~—(3) Exemptions.~~

~~—(a) Redevelopment. Building permits and certificates of occupancy may be issued for remodeling or structural alterations in existing developments without requiring compliance with this section provided such redevelopment does not result in an increase in the number of required parking spaces.~~

~~—(b) Change of use. The number of parking spaces required by this section may be reduced when the use of a building is changed or reduced to a use or floor area for which fewer parking spaces are required. When the use is changed to a use for which more parking spaces are required, the number of spaces shall be increased to comply with the off-street parking schedule and design standards. Off-street parking requirements may be met with shared or remote parking areas as described elsewhere in § 185.140.~~

~~—(C) General requirements.~~

~~—(1) Any principal structure built or enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area after the effective date of this section shall provide off-street parking in accordance with the provisions of this section.~~

~~—(2) It shall be unlawful for an owner or operator of any structure or use affected by this chapter to discontinue or change the required parking areas, other than through a corresponding reduction in size of the structure or change in use, without meeting the requirements of this section.~~

~~—(D) Design Requirements.~~

~~—(1) All parking spaces, and access drives shall be improved in accordance with the design standards set forth in the current edition of the City of Palm Bay Public Works Manual and the Land Development Code.~~

~~—(2) Each parking space shall have a minimum width of ten (10) feet and a minimum length of nineteen (19) feet. If a parking space contains a wheel stop or abuts a curbed or landscaped island, an overhang may be permitted, and the length of the space thereby shortened to a minimum of sixteen (16) feet.~~

~~—(a) Accessible spaces shall follow the current editions of the ADA, the FDOT Manual on Uniform Traffic Control Devices (MUTCD), the Florida Accessibility Code for Building Construction (FACBC), and F.S. Chapter 208.~~

~~—(b) Wheel stops may be used to prevent a vehicle from encroaching on adjacent sidewalks or property. The wheel stop shall be set back a distance that~~

~~provides an unobstructed sidewalk width of four (4) feet to meet the Americans with Disabilities Act and the Florida Accessibility Code for Construction.~~

~~— (3) All off-street parking areas shall be designed to have adequate access to a public street or alley. The function and operation of the proposed parking type must be compatible with and appropriate for the type of parking proposed. Back-out parking or any other type parking utilizing the public right-of-way as an access aisle is prohibited except when applied to single-family and duplex land uses. Interior aisle widths shall conform to the minimum requirements below:~~

Parking	Aisle		Width
Angle	One-Way	Two-Way	
30°	12 feet	22 feet	
45°	14 feet	22 feet	
60°	18 feet	22 feet	
90°	24 feet	24 feet	
Parallel	12 feet	22 feet	

~~— (4) Non-residential driveways.~~

~~— (a) Non-residential driveways widths measured at the right-of-way line shall be a minimum width of fifteen (15) feet for one-way traffic and twenty-four (24) feet for two-way traffic.~~

~~— (b) One (1) driveway per parcel shall be permitted for properties with up to one hundred and fifty (150) feet of street frontage. An additional driveway may be permitted for each additional one hundred and fifty (150) feet of street frontage.~~

~~— (c) Driveways shall be at least fifty (50) feet apart measured from the closest driveway edge at the right-of-way line.~~

~~— (d) Driveways along a minor side street shall not be located closer than one hundred twenty (120) feet to the nearest major street intersection.~~

~~— (e) In no case, however, shall a driveway or curb cut be permitted on the radii of any intersection. All driveways that connect to a public road right-of-way shall be paved from the property line to the edge of pavement of the abutting roadway.~~

~~— For larger commercial development that proposes multiple lanes of traffic, the following driveway width requirements shall apply:~~

	Minimum	Maximum
Three-way traffic lanes	36 feet	48 feet
Four-way traffic lanes	48 feet	60 feet

~~—(5) Where off-street parking is required, such required parking areas shall be used for vehicular parking only. No sales, dead storage, repair work, dismantling or servicing of any kind shall be conducted, and the required areas in the various zoning districts shall be in addition to the loading and service spaces normally required for the business or office served.~~

~~—(6) Where off-street parking is required, such parking shall be provided on the same lot or premises with the business or office which is being served. In the event the use of the lot or premises expands or changes and would require additional parking that cannot be accommodated on-site, the parking requirement may be satisfied off-site by following the provisions of § 185.140(H).~~

~~—(7) Where artificial lighting is provided, it shall be designed and arranged so that no source of such lighting will be a visible nuisance to adjoining property used or zoned for a residential purpose. In addition, such lighting shall be designed and arranged to shield public streets and highways and all adjacent properties from direct glare or hazardous interference of any kind. All lighting shall meet the standards provided for in § 185.143 of the Palm Bay Code of Ordinances.~~

~~—(8) When units or measurements determining the number of off-street parking spaces result in requirement of a fractional space, any such fractional space equal to or greater than one-half (1/2) shall require a full off-street parking space.~~

~~—(9) All required off-street parking areas shall be provided in compliance with the landscaping provisions of this Code of Ordinances set forth in § 185.142 and Chapter 180.~~

~~—(10) The provisions of this division (D) shall apply to all new off-street parking or other vehicular use areas.~~

~~—(11) Parking lots permitted prior to adoption of the Americans with Disabilities Act (ADA) may be re-painted atop the existing parking space striping and will be considered maintenance. However, parking areas that are modified from this original layout shall be re-designed meeting the ADA requirements, inclusive of parking space striping, signage, markings, and handicapped ramps (where applicable). The site must still meet the minimum amount of parking spaces as provided for in this section.~~

~~—(E) Shared parking.~~

~~—(1) The standards and peak parking analysis contained in the most current edition of "Parking Generation" by the Institute of Transportation Engineers (ITE), is hereby adopted and shall be referenced in any calculation of shared parking.~~

~~—(2) The Director of Growth Management may permit the required parking spaces for one use to be shared with required parking spaces for one or more uses upon a finding that:~~

~~—(a) The shared parking spaces are in close proximity and readily accessible to the uses served; and~~

~~—(b) The uses served have different peak parking demands and operating hours; and~~

~~—(c) The design of the parking area in terms of traffic circulation, vehicular and pedestrian access, stormwater management, landscaping, open space preservation, and public safety meets the requirements set forth in Chapter 185.~~

~~—(3) It shall be the responsibility of an applicant for shared parking approval to provide a description of the uses, site plan(s), trip generation report, parking study and other information necessary to permit a finding by the Director of Growth Management regarding the request for shared parking.~~

~~—(4) In granting approval to meet the parking requirement with shared parking, the Director of Growth Management may require an agreement for shared parking be made between or among the~~

~~appropriate parties in the form of a shared parking agreement with easement(s) in recordable form acceptable to the City Attorney's office. Such document shall be recorded in the public records of Brevard County, Florida.~~

~~—(F) Parking computations.~~

~~—(1) Acceptable thresholds. As part of an approval of new construction, a change in use, substantial renovation, or expansion of an existing shopping center, the applicant shall calculate the required number of spaces as listed in division (G) and:~~

~~—(a) The number of handicapped parking spaces shall be as required by applicable Florida Statutes.~~

~~—(2) Unlisted uses. Upon receiving a development application for a use not listed in division (G), the Director of Growth Management shall apply the parking~~

~~and loading requirements for the listed use most similar in parking needs to the use for which development approval is requested.~~

~~—(3) Multiple uses. Lots containing more than one (1) use shall provide parking in an amount equal to the total of the requirements for all uses unless a shared parking arrangement is approved pursuant to division (E).~~

~~—(4) Fractions. When calculations of the number of required spaces result in fractions, any fraction up to one-half shall be disregarded and any fraction of one-half or more shall be rounded upward to the next highest full number.~~

~~—(5) Bench seating. Where seating consists of benches or pews, each twenty (20) linear inches shall be considered one seat.~~

~~—(6) Floor area. For the purpose of computing parking requirements which are based on the amount of square footage in buildings, calculations shall be on a gross floor area basis, unless otherwise indicated.~~

~~—(7) Employees. For the purpose of computing parking requirements based on the number of employees, calculations shall be for the largest number of persons working on any single shift, including owners and managers.~~

~~—(G) Amount of off-street parking required. Off-street parking shall be provided based on the following minimum requirements:~~

~~—(1) Animal hospital or veterinarian clinic: One (1) space for each five hundred (500) square feet of gross floor area, plus one (1) space for each doctor and/or employee.~~

~~—(2) Auto repair: One (1) space for each two hundred (200) square feet of gross floor area, plus credit of one (1) space per bay.~~

~~—(3) Care home or convalescent home: One (1) space for each patient bed.~~

~~—(4) Church or other place of worship: One (1) space for each three (3) seats in auditorium or chapel area, or one (1) space for each one hundred and twenty (120) square feet of floor area of the main assembly hall, whichever is greater, plus one (1) space per classroom.~~

~~—(5) Country club, health clubs, racquet clubs, or recreational facility: One (1) space for each one hundred and twenty (120) square feet of assembly hall/auditorium or one (1) space for each two hundred (200) square feet of gross floor area, whichever requirement may be greater, plus two (2) spaces per court and four (4) spaces per golf hole.~~

- ~~— (6) Day care centers: One (1) space per state required staff person plus one (1) space per ten (10) children, based on state license maximum.~~
- ~~— (7) Residential uses:~~
 - ~~— (a) Single family dwelling unit: Minimum of two (2) parking spaces per dwelling unit.~~
 - ~~— (b) Multiple family dwellings:~~
 - ~~— 1. Minimum of two (2) parking spaces per a two (2) or more bedroom dwelling unit;~~
 - ~~— 2. One and one-half (1½) parking spaces per one (1) bedroom dwelling unit; and~~
 - ~~— 3. One (1) space per efficiency unit that is part of a mixed one (1) and two (2) bedroom multi-family development. A development of efficiency units only shall have a minimum of one and one-half (1½) parking spaces per unit.~~
- ~~— (8) Elderly and handicapped housing: One half (½) of a parking space per dwelling unit.~~
- ~~— (9) Financial institution: One (1) space for each two hundred (200) square feet of gross floor area.~~
- ~~— (10) Food store: One (1) space for each two hundred (200) square feet of gross floor area.~~
- ~~— (11) Furniture carpet or appliance store: One (1) space for each four hundred (400) square feet of retail floor space.~~
- ~~— (12) Hospital: One (1) space for each two (2) beds, plus one (1) space for each employee at maximum employment on a single shift.~~
- ~~— (13) Hotel or motel: One (1) space for each guest room or rental unit, plus one (1) space for each employee.~~
- ~~— (14) Manufacturing and industrial activities: One (1) space for every employee on the largest working shift, or one (1) space for each one thousand (1,000) square feet of gross floor area, whichever is greater, plus one (1) space for each company vehicle operating from the premises.~~
- ~~— (15) Marina: One (1) parking space for every two (2) wet boatslips and one (1) parking space for every four (4) dry boatslips.~~

~~— (16) Medical and dental offices and clinics: One (1) space for each three hundred (300) square feet of gross floor area, plus one (1) space per each employee.~~

~~— (17) Mobile home: Two (2) spaces per mobile home.~~

~~— (18) Office (administrative, business or professional): One (1) space for each three hundred (300) square feet of gross floor area.~~

~~— (19) Place of public assembly, including an assembly hall, exhibition hall, convention hall, entertainment center, community center, library or museum One (1) space for each three (3) seats, or one (1) space for each two hundred (200) square feet of gross floor area, whichever is greater.~~

~~— (20) Restaurants and drinking establishments: One (1) space for each three (3) seats, plus one (1) space for every employee.~~

~~— (21) Drive-thru restaurants without indoor seating: one (1) space for each seventy five (75) square feet of gross floor area plus one (1) space for every employee.~~

~~— (22) Retail stores and shops, personal service establishments, household repair or equipment shops: One (1) space for each two hundred (200) square feet of gross floor area.~~

~~— (23) School, elementary (public, private or parochial): One (1) space for each classroom or office room, plus one (1) space for each one hundred and fifty (150) square feet of seating area, including aisles, in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.~~

~~— (24) School, junior and senior high schools and colleges (public, private or parochial), K-8 and K-12 educational facilities: Four (4) spaces for each classroom or office room, plus one (1) space for each one hundred and fifty (150) square feet of seating area, including aisles, in any auditorium or gymnasium or cafeteria intended to be used as an auditorium.~~

~~— (25) Shopping centers.~~

~~— (a) For commercially zoned developments with twenty-five thousand (25,000) gross square feet or greater, minimum off-street parking shall be provided according to the following schedule:~~

Gross Floor Area	Parking/Square Feet
25,000 to 50,000 sq. ft.	1 space per 250 sq. ft.

50,000 sq. ft. and over 1 space per 400 sq. ft.

~~— (b) There shall be no other parking space reductions in shopping centers than provided above.~~

~~— (c) When tenants of a shopping center include theaters, the following also applies:~~

~~— 1. Theaters. Shopping centers that contain a theatre shall provide the amount of parking as required in (a) above, plus the number of spaces required for theaters in (26) below.~~

~~— (26) Theaters and other places of assembly having fixed seating: One (1) space for each four (4) seats, plus one (1) space for each two (2) employees.~~

~~— (27) Warehousing and wholesaling: One (1) space for each one thousand (1,000) square feet of gross floor area for buildings up to ten thousand (10,000) square feet of gross floor area. For buildings in excess of ten thousand (10,000) square feet, one (1) space shall be provided for each two thousand (2,000) square feet, plus one (1) space for each company vehicle operating from the premises.~~

~~— (28) Multi-tenant warehouse buildings (typically used for contractors and other service establishments): One (1) space for each five hundred (500) square feet of gross floor area, plus one (1) space for each company vehicle operating from the premises.~~

~~— (29) Indoor Recreation: For those indoor recreation categories not specifically provided for herein, there shall be a minimum of one (1) space for each three hundred (300) square feet of gross floor area or one (1) space for each two (2) machines, whichever is greater.~~

~~— (30) Self-storage facilities:~~

~~— (a) Internally-accessed self-storage facilities (indoor, climate-controlled):~~

~~— 1. One (1) space for each 25 units, plus three (3) spaces for the facility's lease office.~~

~~— (b) Externally-accessed facilities (drive-up storage units):~~

~~— 1. At least three (3) parking spaces shall be provided adjacent to the facility's lease office. Interior traffic lanes between storage buildings shall be a minimum of thirty-five (35) feet wide for two-way traffic and a minimum of twenty-five (25) feet for one-way traffic, in order to accommodate loading and unloading, as well as through and/or emergency traffic.~~

~~—(c) Outdoor storage of vehicles (boats, R.V.'s, etc.) may occur at either of the above facility, on paved or stabilized surfaces as approved by the City Engineer. The outdoor storage area must be screened from any public rights-of-way or adjacent residentially zoned property by an 8' tall completely opaque wood or PVC fence, or masonry wall that has a finished appearance on both sides of the wall.~~

~~—(H) Off-site parking and storage lots. All off-site parking and storage lot applications shall be considered individually by the Director of Growth Management and shall be subject to the requirements of this section and the City Land Development Code for site plan approval.~~

~~—(1) Conformance standards. All off-site parking and storage lots must be located no further than five hundred feet (500') from the outermost boundaries to the parent parcel that must contain a minimum of one (1) principal structure. No off-site parking area shall be permitted where the subject property is separated from the parent property by an arterial or collector roadway.~~

~~—(2) The applicant must submit a survey showing any exceptional specimen trees on site and submit a parking plan with details for surface material, traffic and safety devices, along with storm water treatment, for administrative site plan review.~~

~~—(3) Any exceptional specimen trees to be preserved in-place shall be effectively fenced or separated so that no damage shall occur to these trees while the site is being used for parking of vehicles or storage of materials on-site.~~

~~—(4) Storage lots shall be screened on all sides by a minimum 6' tall completely opaque wood or PVC fence, or a masonry wall with a finished exterior surface.~~

~~—(5) Storage lots shall be constructed of paved or stabilized surfaces as approved by the City Engineer, or designee, and the driveway shall be paved from the property line to the edge of pavement of the abutting roadway.~~

~~—(6) Parking lots shall meet the parking development standards of this section and meet the landscape requirements of § 185.142.~~

~~—(7) The proposed off-site parking or storage lot must post the identity of the business(es) that has control of the site, the hours of operation for the lot, as well as emergency contact information that is clearly visible from the street. This information shall remain posted for as long as the site is in use.~~

~~—(8) Any lot or parcel of land leased for off-site parking or storage shall cease use at the same time the lease agreement is terminated.~~

~~—(9) A unity of title shall be required for off-site parking lots where they are utilized to meet the minimum parking requirements of the parent parcel.~~

~~—(I) Parking rate adjustment.~~

~~—(1) Any deviation in parking from the acceptable thresholds set forth in this section, shall require approval by the Director of Growth Management. This approval shall rely on written request for a parking rate adjustment filed with the Director of Growth Management. At a minimum the application shall include:~~

~~—(a) All data, materials, and information required for site plan approval of the subject site,~~

~~—(b) A map of the surrounding area reflecting existing zoning,~~

~~—(c) A parking study that identifies the relevant facts upon which the request is based, and describes in detail the basis for the proposed rate adjustment, and~~

~~—(d) Documents demonstrating that the applicant controls and will continue to control the property(ies) affected by the application.~~

~~—(2) The parking study required in section may include, but is not limited to:~~

~~—(a) Local parking studies of the same land use,~~

~~—(b) Shared parking by mixed uses,~~

~~—(c) On-site trip capture from secondary trip opportunities, and/or~~

~~—(d) Utilization of off-site parking, employer-based or other activities and/or provisions that will result in alternative travel modes that are not dependent on on-site parking,~~

~~—(3) In granting a parking rate adjustment, the Director of Growth Management shall determine that the proposed rate adjustment would not result in undesirable overflow parking, nor otherwise adversely impact the character and integrity of the surrounding area.~~

~~—(J) Paving standards. All parking spaces, access drives, and loading zones shall be paved in accordance with the design standards set forth in the current edition of the City of Palm Bay Public Works Manual and the Land Development Code.~~

~~—(K) Vehicular and pedestrian interconnections. For commercial development, vehicular and pedestrian interconnections are encouraged.~~

~~§ 185.141 OFF-STREET LOADING AND SERVICE FACILITIES.~~

~~—Off street loading and service facilities shall be provided in accordance with the following standards and specifications:~~

~~—(A) On the same lot with every structure or use, hereinafter erected or created there shall be provided and maintained adequate space for loading and unloading of materials, goods or things and for delivery and shipping so that vehicles for the service may use this space without encroaching on or interfering with the public use of sidewalks, streets, parking areas, aisles, driveways and alleys by pedestrians and vehicles.~~

~~—(B) Where any structure is enlarged or any use is extended so that the size of the resultant occupancy comes within the scope of this section, the full amount of off-street loading space shall be supplied and maintained for the structure or use in its enlarged or extended size. Where the use of a structure or land or any part thereof is changed to a use requiring off-street loading space under this section, the full amount of off-street loading space shall be supplied and maintained to comply with this section.~~

~~—(C) For the purposes of this section, an off-street loading space shall be an area at the grade level at least fourteen (14) feet wide, forty-five (45) feet long, and having fourteen (14) feet of vertical clearance. Each off-street loading space shall be arranged for convenient and safe ingress and egress by motor truck and/or trailer combinations. No off-street loading space or necessary access way thereto shall be designated or utilized as off-street parking space. Each off-street loading space shall be accessible from the interior of any building it is intended to serve.~~

~~—(D) Off-street loading spaces shall be provided and maintained in accordance with the following schedule:~~

~~—(1) For buildings or structures containing retail, food store, restaurant, laundry, dry cleaning or similar retail or service uses which have an aggregate gross floor area of:~~

~~—(a) Over five thousand (5,000) square feet, but not over twenty-five thousand (25,000) square feet — one (1) space;~~

~~—(b) Over twenty five thousand (25,000) square feet, but not over fifty thousand (50,000) square feet — two (2) spaces;~~

~~—(c) One (1) additional loading space shall be provided for each additional fifty thousand (50,000) square feet, or fractional part thereof, for buildings larger than fifty thousand (50,000) square feet.~~

~~—(2) For each auditorium, exhibition hall, museum, hotel, or motel, office building, or similar use, which has an aggregate gross floor area of over ten thousand (10,000) square feet, but not over fifty thousand (50,000) square feet, one (1) space. One (1) additional loading space shall be provided for each additional fifty thousand (50,000) square feet, or fractional part thereof, for buildings larger than fifty thousand (50,000) square feet.~~

~~—(3) For any light manufacturing, ware-house, research and development, assembly or similar industrial use which has aggregate gross floor area of over ten thousand (10,000) square feet, but not over fifty thousand (50,000) square feet, one (1) space. One (1) additional loading space shall be provided for each additional fifty thousand (50,000) square feet, or fractional part thereof, for buildings larger than fifty thousand (50,000) square feet.~~

~~—(4) For any use not specifically mentioned in this section, the requirements for off-street loading for a use which is mentioned and to which the unmentioned use is similar shall apply. Where there is any question as to the off-street loading needs of any other use, the number shall be determined and fixed by the Growth Management Director, or designee.~~

~~—(E) Off-street loading facilities to meet the needs of one (1) use shall not be considered as meeting the off-street loading needs of any other use.~~

~~—(F) No area supplied to meet the required off-street parking areas for a use shall be utilized for or be deemed to meet the requirements of this section for off-street loading facilities.~~

~~—(G) Nothing in this section shall prevent the collective, joint or combined provision of off-street loading facilities for two (2) or more buildings or uses; 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 so located and arranged as to be usable thereby.~~

~~—(H) Plans for buildings or uses requiring off-street loading facilities under the provisions of this section shall clearly indicate the location, dimensions, clearance and access of such required off-street loading facilities.~~

~~§ 185.142 OFF-STREET PARKING AREA LANDSCAPING REQUIREMENTS.~~

~~Wherever in any zoning district, off-street parking areas in excess of one thousand five hundred (1,500) square feet, or five (5) spaces, exist, such parking areas and land shall conform to the minimum landscaping requirements set forth in this section; except, that single and two family residential uses on individually platted lots and multilevel parking structures shall be exempt from such requirements. All landscaped areas shall be protected from vehicular encroachment by curbs, wheel stops or other similar devices. Existing trees may be used to meet the requirements of this section.~~

~~(A) Plant material.~~

~~(1) Existing vegetation. The preservation and maintenance of existing native vegetation is strongly encouraged. Native species such as oaks, pines, sabal palms, red maples and mangroves having a trunk height of at least six (6) feet or having a caliper of at least two (2) inches may substitute for the tree planting requirements stated in this section. Existing vegetation may also substitute for buffer requirements along interior lot lines if such vegetation creates an opaque screen and has a caliper of at least two (2) inches. The following species, however, are not to be used as substitutes for the requirements in this section nor shall they be planted:~~

- ~~—Botanical name (common names)~~
- ~~—Casuarina (Australian pine, beefwood)~~
- ~~—Melaleuca (cajeput, punk tree, paperbark tree)~~
- ~~—Eucalyptus (gum tree)~~
- ~~—Schinus terebinthifolius (Brazilian pepper)~~
- ~~—Ricinus cummunis (castor bean)~~
- ~~—Melia azedarach (chinaberry)~~
- ~~—Enterolobium cyclocarpum (ear tree)~~
- ~~—Sapium sebiferum (Chinese Tallow)~~
- ~~—Cupaniopsis anacardioides (Carrotwood)~~
- ~~—Leucaena leucocephala (White Leadtree)~~

~~(2) Drought tolerant vegetation. A minimum of fifty percent (50%) of total cumulative landscape plant material used to meet the provision of this section shall be drought tolerant as classified in the most recent edition of the St. Johns Water~~

~~Management District Xeriscape Plant Guide, or other comparable publications approved by the Planning Division. Existing vegetation may be used to fulfill the requirements of this section.~~

~~— (3) (a) Trees. All trees shall be species having an average mature spread or crown spread of fifteen (15) feet or greater in area and having trunks which can be maintained in a clean condition with over six (6) feet of clear wood measured from the ground. Trees having an average mature spread or crown less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of a fifteen (15) foot crown spread. Tree species shall be a minimum of ten (10) feet in overall height at time of planting. Tree species whose roots are known to cause damage to public road ways or other public works shall not be planted closer than twelve (12) feet to such public works, unless the tree root system is completely contained within a barrier for which the minimum interior dimensions shall be five (5) feet square and five (5) feet deep, and for which construction requirements shall be four (4) inch thick concrete reinforced with No. 6 load mesh (6×6×6) or equivalent.~~

~~— (b) No single species of tree shall be used to total more than fifty (50%) percent of the required number of trees.~~

~~— (4) Palms. Palm trees may be used as a part of a landscaping plan; however, palms shall not be used to fill more than thirty percent (30%) of the requirements of this section. Existing native palms on site should be used and can substitute if the palms have a clear trunk height of at least six (6) feet or a caliper of at least six (6) inches.~~

~~— (5) Shrubs and hedges. Shrubs shall be a minimum of three (3) feet overall in height when measured at planting. Hedges, where required, shall be planted and maintained so as to form a continuous, unbroken, solid visual screen within six (6) months after time of planting.~~

~~— (6) Ground covers. Ground covers used in lieu of grasses shall be planted so as to present a finished appearance. The use of marl, crushed shell, coquina, or other road base material as a ground cover is unacceptable. Railroad ties, wood, bricks, stones, and synthetic materials can be used to separate landscape areas, but cannot be used in place of required ground cover.~~

~~— (7) Lawn grass. Lawn grasses shall be planted in grass species normally grown as permanent lawns in the county such as, but not limited to bahia, St. Augustine, and Bermuda species. All landscape areas to contain lawn grass shall~~

~~be completely covered with solid sod. Solid sod shall be used in swales or other areas subject to erosion. Grass sod shall be clean and reasonably free of weeds, noxious pests or disease.~~

~~—(8) Artificial plant material. Artificial plant material or artificial lawns or plants cannot be used.~~

~~—(9) Conformance with state standards. All plant material used shall conform to the standards for Florida No. 1, or better, as given in Grades and Standards for Nursery Plants, State of Florida, Department of Agriculture.~~

~~—(10) Mulch. All areas of required landscaping shall be mulched unless completely covered with grass or other approved ground cover.~~

~~—(11) Vines. Plants which require support to reach mature form. Vines shall be planted no further apart than three (3) feet from each other when used to meet the requirements of division (B)(3)(g) below.~~

~~—(B) Development standards.~~

~~—(1) Where parking areas are provided, there shall be required landscaping between such area and any abutting right-of-way as follows:~~

~~—(a) A strip of land at least ten (10) feet in depth located adjacent to an abutting right-of-way shall be landscaped to include an average of one (1) tree for each fifty (50) linear feet or fractional part thereof. These trees shall have a minimum two (2) inch caliper with a height of ten (10) feet at time of planting.~~

~~—(b) In addition, a hedge, wall, berm or other opaque durable landscape barrier of at least three (3) feet in height shall be placed along the entire length of the abutting right-of-way. Shrubs shall be planted twenty four (24) inches apart; this requirement shall apply to all sections of the landscape code where the planting of shrubs is required. If such opaque, durable barrier is of nonliving material, shrubs or vines shall be planted in such a manner as to break up the expanse of the wall. A two (2) foot berm may be used; however, additional landscaping at least one (1) foot in height at time of planting shall be installed. The remainder of the required landscape areas shall be landscaped with grass, ground cover or other landscape treatment.~~

~~—(c) Large parcels. When multi-family or non-residential parcels or tracts of land contain frontage that exceeds three hundred (300') linear feet, these developments shall plant one (1) tree per thirty (30) linear feet, or fractional part thereof, for the entire length of the frontage. Trees may be clumped, provided that~~

~~spacing between tree trunks is no greater than fifty (50) feet. The frontage shall also contain one (1) shrub per two (2) linear feet and these shrubs shall be a minimum of three (3) feet in height at time of planting.~~

~~— (2) Required landscaping adjacent to interior property lines:~~

~~— (a) Where parking areas abut property zoned or, in fact, used primarily for residential or institutional purposes, that portion of such area not entirely screened visually by an intervening structure or existing conforming buffer from an abutting property shall be provided a landscaped buffer which shall be maintained and replaced as needed. Such landscaped buffer shall consist of plant material, wall or other durable barrier at least six (6) feet in height measured from the median elevation of the parking area closest to the common lot line, and shall be located between the common lot line and the abutting property. Where the screen is composed of plant material capable of reaching six (6) feet in height, it shall be at least thirty-six (36) inches in height at time of planting and shall attain opacity within twelve (12) months under normal growing conditions.~~

~~— (b) In addition, an average of one (1) tree shall be provided for each thirty-five (35) linear feet of such parking area or fractional part thereof, adjacent to the common lot line, or a ratio equal to one (1) tree per thirty-five (35) linear feet of fifty percent (50%) of the length of the common lot line, whichever is greater. Trees within perimeter landscape strips may be grouped, but the distance between these trees shall not exceed fifty (50) feet. These trees shall have a minimum two (2) inch caliper with a height of ten (10) feet at time of planting. Each such tree shall be planted in at least twenty-five (25) square feet of planting area with a minimum dimension of at least five (5) feet. Each such planting area shall be landscaped with grass, ground cover or other landscape treatment.~~

~~— (c) Where such area abuts a dedicated alley or property zoned and, in fact, used for office, commercial or industrial purposes, that portion of area not entirely screened visually by an intervening structure or existing conforming buffer shall comply with the tree provisions only as prescribed in this section.~~

~~— (d) 1. Where a drainage or utility easement or right-of-way separates the parcel containing the off-street parking area and abutting properties or public rights-of-way, the provisions of this section shall apply unless the easements or rights-of-way contain trees which meet the planting and number requirements of this section. Should these trees be removed or die, the requirements of this section must be met.~~

~~2. Where drainage facilities or drainage or utility easements exist along the lot lines within the parcel containing off-street parking areas, the required trees shall not be placed in any drainage facility or easement; however, trees may be located along the edge of drainage facilities.~~

~~(3) Required interior parking area landscaping.~~

~~(a) All parking areas shall be internally landscaped to provide visual and climatic relief from broad expanses of pavement and to channelize and define logical areas for pedestrian and vehicular circulation. Interior landscaping, excluding required parking setbacks, shall account for ten percent (10%) of the total parking area. Landscape dividing strips, with or without walkways, shall be used to subdivide the parking area into rows with not more than an average of ten (10) spaces, per row except that parking rows adjacent to required landscape row dividers shall only be required such landscape strips at the end of each landscape row divider.~~

~~(b) Each separate landscape area shall contain a minimum of one hundred (100) square feet and shall have a minimum dimension of at least ten (10) feet, measured at its narrowest area, except that islands required to be designed with turn radii are permitted to have less than ten (10) feet if approved by the Growth Management Director, or designee, and shall include at least one (1) tree, with the remaining area meeting the requirements of this code. The total number of trees shall not be less than one (1) per two hundred (200) square feet or fraction thereof of required interior landscaped area and shall exclude those trees required along the perimeter of the parcel. Such landscaped areas shall be protected from vehicular encroachment by curbs, wheelstops or landscape timbers. Whenever an off-street parking area is designed to provide parking of vehicles in five (5) rows or more, at least one (1) interior landscaped area not less than ten (10) feet in width shall be provided the length of the parking rows, with at least one (1) landscaped row divider required for every five (5) parking rows. Landscaped areas, including landscaped islands, within or abutting vehicular use areas shall be excavated to a depth of two (2) feet to remove lot base course material, lime rock, asphalt, concrete, and similar material in order to ensure that adequate planting soil exists.~~

~~(c) In other parking areas where the strict application of this section will seriously limit the function of such areas, such as off-street loading areas, the required landscaping may be located near the perimeter of the paved area. Such interior landscaping which is relocated as herein provided shall be in addition to the perimeter landscaping requirements.~~

~~—— (d) The front of a vehicle may encroach upon any interior landscaped area or walkway when the area is at least three and one-half (3½) feet in depth per abutting parking space and protected by motor vehicle stops or curbing. An overhang may be permitted in such landscaped area or walkway. If shrubs or hedges are planted in front of such parking areas, the shrubs must be planted a minimum of three and one-half (3½) feet from the back of the curb or wheel stop to prevent damage to the hedge.~~

~~—— (e) Interior landscaped areas may be used for retention and detention sites for groundwater recharge.~~

~~—— (f) All garbage/refuse containers shall be screened on at least three (3) sides by concrete block, fencing or other materials at least six (6) feet in height which renders the view of the container opaque.~~

~~—— (g) Landscape vines, shrubs, or a combination of the two, are required to be planted along the outside of subdivision walls and/or any required masonry walls facing canal, road, or other rights-of-way.~~

~~—— (4) Pedestrian zone landscaping.~~

~~—— (a) A pedestrian zone is defined as a setback from any building facade facing a parking area or driveway, excluding the rear of the building. In no case shall the required pedestrian zone have an area less than ten (10) feet in width; nor shall more than five (5) feet of the width of the required pedestrian zone be paved, except for necessary access perpendicular to building entries. A minimum of five (5) feet of the width of the required pedestrian zone shall be clear of roof overhand. For drive-thru facilities, the length of a building containing the drive-thru window(s), or the loading/unloading spaces and overhead doors in industrial/warehouse or commercial buildings shall be exempt from these provisions.~~

~~—— (b) Plant materials. All multi-family and all non-residential development shall have at least two (2) trees planted per pedestrian zone, except for areas under a canopy. The requirements of this subsection concerning pedestrian zone trees shall not apply for gasoline stations if such trees cause a line of sight obstruction.~~

~~—— (5) Replacement Trees. The requirements for replacement trees listed in § 180.16(E) shall be observed. However, under extenuating circumstances where the requirements conflict with best horticulture practices for tree planting, some number of these trees may be planted within publically-owned lands. The number,~~

~~location, and placement thereon, shall be approved by the Growth Management Director, or designee. As an alternative to planting the trees off-site, the developer may choose to mitigate said trees through the payment of a fee, into the Palm Bay Tree Replacement Trust Fund. The replacement contribution shall be as provided for in latest fee resolution.~~

~~—(C) Intersection visibility. Where an aisle, driveway, sidewalk, bike path or other access way intersects a public right-of-way, landscaping shall be used to define the intersection, provided, however, all landscaping within the triangular areas described below shall provide unobstructed cross-visibility at a level between two (2) and six (6) feet. Trees having limbs and foliage trimmed in such a manner that no limbs or foliage extend into cross-visibility shall be allowed, provided they are so located so as not to create a traffic hazard. Landscaping, except grass and ground cover, shall not be located closer than three (3) feet from the edge of any access way pavement. The triangular areas are:~~

~~—(1) The areas of property on both sides of an aisle, driveway or other access way formed by the intersection of each side of the aisle, driveway or access way and the public right-of-way pavement line with two (2) sides of each triangle being ten (10) feet in length from the point of intersection and the third side being in line connecting the ends of the two (2) other sides.~~

~~—(2) The area of property located at a corner formed by the intersection of two (2) or more public streets with two (2) sides of the triangular area being measured thirty (30) feet in length along the right-of-way line (or in the case of an arc, the extensions of the right-of-way lines) from their point of intersection, and the third being a line connecting the ends of the other two (2) lines.~~

~~—(D) Installation and maintenance.~~

~~—(1) All landscaping shall be installed to accepted commercial planting procedures. Soil, which is free of lime rock, pebbles or other construction debris shall be provided. The owner of the property shall be responsible for the maintenance of all landscaping in good condition so as to present a neat, healthy and orderly appearance free of refuse and debris. All landscaped areas shall be provided with an irrigation system or available water supply with at least one (1) outlet located within one hundred and fifty (150) feet of the plant material. Where existing vegetation is used to meet the requirement along public rights-of-way or interior lot lines a water supply is not required. In order to reduce irrigation requirements, the following water saving techniques will be encouraged:~~

- ~~—— (a) The use of reclaimed wastewater where available;~~
 - ~~—— (b) The use of drought tolerant ground cover instead of lawn grass;~~
 - ~~—— (c) Watering schedules for automatic systems to reduce irrigation in the rainy summer and dormant winter seasons;~~
 - ~~—— (d) The commitment to irrigate between sunset and sunrise when evaporation is minimal;~~
 - ~~—— (e) Irrigation systems shall be designed to the greatest extent practical, water being applied to impervious areas is eliminated;~~
 - ~~—— (f) The use of xeric landscaping techniques.~~
- ~~—— (2) If any living material that is required by this code and shown on the approved site/landscape plan dies or fails to achieve normal growth, it shall be replaced within thirty (30) days of notification from the Growth Management Director, or designee. Such replacement landscaping shall meet all requirements of this code and the approved site/landscape plan. Failure to maintain the minimum landscape requirements of this section shall constitute a violation of this code.~~
- ~~—— (3) Pruning and topping. Pruning restrictions shall not apply for trees located under power lines. Trees shall be pruned only as necessary to promote healthy growth. Trees shall be allowed to attain their normal size and shall not be severely pruned or “hat racked” in order to permanently maintain growth at a reduced height. Trees may be periodically pruned or thinned in order to reduce leaf mass in preparation for tropical storms. All pruning shall be accomplished in accordance with the National Arborist’s Standards.~~
- ~~—— (E) Site plan data. Applicants for building permits shall submit a landscape plan containing the following:~~
- ~~—— (1) An engineering scale (One (1) inch equals twenty (20) feet preferred).~~
 - ~~—— (2) Property lines.~~
 - ~~—— (3) Dimensions.~~
 - ~~—— (4) Structures.~~
 - ~~—— (5) Accurate parking lot design showing parking spaces, aisles, loading areas, driveways, islands, signs, and parking lot or security light fixtures and the like.~~

~~—(6) Calculations of total square footage of the parking and landscaped areas as well as indicating the number and location of existing trees to be used and the number of new trees to be planted.~~

~~—(7) Location of water lines or other underground utilities, fire hydrants and other above ground utility fixtures.~~

~~—(8) Grading plan.~~

~~—(9) Plant specification list which is keyed to the plan and contains the botanical name, common name, estimated sizes at planting and at maturity (crown spread and height), quantity of each, and how transplanted to the site (container stock, bare root, balled or burlapped).~~

~~—(F) Nuisance Vegetation. All recognized nuisance trees (i.e. pepper trees, Australian pines, etc.) shall be removed during site preparation and perpetually removed (upon re-growth) after issuance of a Certificate of Occupancy.~~

~~—(G) The provisions of this section shall apply to all new off-street parking areas.~~

~~—(H) At such time as existing off-street parking or other vehicular use areas are enlarged, the enlarged areas shall meet the provisions of this section. The newly enlarged areas shall not cause the existing parking area landscaping to be more nonconforming.~~

~~—(I) At such time as existing off-street parking or other vehicular use areas are modified, the modification shall not cause the existing parking area landscaping to be more nonconforming. The intent of this provision is that any existing off-street parking or vehicular use areas shall, when feasible, become more conforming to the landscaping requirements of this section. Determination of the feasibility of modifying the existing parking or vehicular use areas, to become more conforming, shall be made by the Growth Management Director, or designee. This determination shall be based on the following considerations:~~

~~—(1) Cost of compliance with specific criteria in the parking area landscaping code;~~

~~—(2) Physical space available within the existing areas to comply with specific criteria in the parking area landscaping codes, such as existing "green" spaces;~~

~~—(3) The extent that existing conditions represent safety hazards; and~~

~~—(4) The extent to which modification addresses other criteria within the Code of Ordinances, such as, but not limited to, enhanced landscape installation,~~

~~compliance with the Americans with Disabilities Act (ADA), stormwater management requirements, and similar regulations.~~

~~§ 185.143 LIGHTING STANDARDS.~~

~~—It is the intent of this Code to define practical and effective measures by which the commercial outdoor light usage can be reduced, while preserving safety, security, and the nighttime use and enjoyment of property. These measures are intended to curtail the degradation of the nighttime visual environment, reduce light trespass, glare, energy consumption and resource waste by encouraging lighting practices that direct appropriate amounts of light where and when it is needed, increasing the use of energy-efficient sources, and decreasing the use of poorly shielded or inappropriately directed lighting fixtures.~~

~~—(A) Conformance standards. All outdoor lighting shall be installed in conformance with the provisions of this Code, the Florida Building Code, the National Electrical Code, the Energy Code, and the Sign Code of Palm Bay and under appropriate permit and inspection.~~

~~—(B) Applicability. New Uses, Buildings and Major Additions or Modifications. For all proposed new land uses, developments, buildings, and structures that require a permit, all outdoor lighting shall meet the requirements of this Code. All building additions or modifications of fifty per cent (50%) or more in terms of additional dwelling units, gross floor area, or parking spaces, either with a single addition or with cumulative additions subsequent to the effective date of this provision, shall invoke the requirements of this Code for the entire site, including previously installed and any new outdoor lighting. Cumulative modification or replacement of outdoor lighting constituting fifty (50) percent or more of the permitted lumens for the parcel, no matter the actual amount of lighting already on a non-conforming site, shall constitute a major addition for purposes of this section.~~

~~—(C) General outdoor lighting standards.~~

~~—(1) Shielding Standards. All nonexempt outdoor lighting fixtures shall have shielding so that the total lumen output falls to zero (0.00) at the property line. (Exception:) seasonal decorative lighting (i.e. Christmas Lights) using typical low-wattage incandescent or LED lamps shall be permitted in all zoning districts from the Thanksgiving holiday through the 15th of January.~~

~~—(2) The use of Metal Halide (MH), Light Emitting Diode (LED), Quartz Light (OL), and High Intensity Discharge (HID), when properly shielded is permitted for~~

~~all exterior site lighting. Other types of lamps not listed shall be considered as a part of the permitting process.~~

~~—(3) High Pressure Sodium (HPS) lighting is prohibited for building and security lighting.~~

~~—(4) The use of Low Pressure Sodium (LPS) lighting is prohibited in all zoning districts.~~

~~—(5) The undue lighting of the night sky by means of searchlights and similar devices without prior approval from the City Manager or their designee is prohibited.~~

~~—(6) Neon Lighting, LED strip and tracer lighting and other types of lighting used to illuminate the outline of a structure or storefront window system is prohibited.~~

~~—(7) No lighting fixture shall produce a lumen output exceeding one thousand (1000) lumens in any given area.~~

~~—(8) Poles and support structures used for outdoor lighting shall not exceed thirty feet (30') in height. The exception shall permit for required lighting of all communication towers or tall structures as mandated by the FAA and FCC.~~

NONCONFORMANCE PROVISIONS

~~§ 185.155 INTENT.~~

~~—(A) Within the districts established by this chapter or amendments that may later be adopted, there exists lots, structures, uses of land and structures and characteristics of use which were lawful before this chapter was passed or amended, but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments.~~

~~—(B) It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their continuation. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.~~

~~§ 185.156 EXTENSION AND ENLARGEMENT.~~

~~—(A) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after~~

~~passage of this chapter by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.~~

~~—(B) To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which an active building permit has been issued. Actual building construction shall be diligently carried on until the subject structure is completed.~~

~~§ 185.157 NONCONFORMING LOTS OF RECORD.~~

~~—(A) In any district, permitted principal and accessory structures may be erected on any single lot that is of record on the effective date of this section, notwithstanding limitations imposed by other provisions of this code of ordinances and any other applicable ordinance of the city. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. These provisions shall apply even though such lot fails to meet the requirements for area or width or both, that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through the procedure established in § 169.009.~~

~~—(B) If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this chapter, and if all or part of the lots do not meet the requirements for lot width and area as established by this chapter, the lands involved shall be considered to be an undivided parcel for the purpose of this chapter, and no portion of the parcel shall be used which does not meet lot width and area requirements established by this chapter.~~

~~§ 185.158 NONCONFORMING USES OF LAND.~~

~~—Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:~~

~~—(A) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter; unless such use is changed to a use permitted in the district in which such use is located;~~

~~—(B) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter;~~

~~—(C) If any such nonconforming use of land ceases for any reason for a period of more than ninety (90) consecutive days. Any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located;~~

~~—(D) No additional structure which does not conform to the requirements of this chapter shall be erected in connection with such nonconforming use of land.~~

~~§ 185.159 NONCONFORMING STRUCTURES.~~

~~—Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:~~

~~—(A) No such structure may be enlarged or altered in a way which increases its nonconformity;~~

~~—(B) But any structure or portion thereof may be altered to decrease its nonconformity;~~

~~—(C) Should such a structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter;~~

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~~—(D) Should such a structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations of the district in which it is located after it is moved.~~

~~§ 185.160 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION.~~

~~—If a lawful use involving individual structures, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:~~

~~—(A) No existing structure devoted to a use not permitted by this chapter in the district on which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;~~

~~—(B) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building;~~

~~—(C) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;~~

~~—(D) When a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for six (6) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located;~~

~~—(E) Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction, for the purpose of this chapter, is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction.~~

~~§ 185.161 REPAIRS AND MAINTENANCE.~~

~~—(A) On any building devoted in whole or in part to any nonconforming use, work may be done in any period of six (6) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent (10%) of the current replacement value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this chapter shall not be increased.~~

~~—(B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.~~

~~§ 185.162 NONCONFORMING OR SUB-STANDARD LOTS CREATED BY EMINENT DOMAIN PROCEEDINGS.~~

~~—Any lot or parcel which shall be made nonconforming or substandard as a result of eminent domain proceedings instituted by the city or other governmental agency or through a voluntary conveyance by a lot owner in lieu of formal eminent domain proceedings, which lot or parcel except for such eminent domain or voluntary conveyance shall be deemed to be a conforming lot or parcel for all purposes under this chapter. However, any new construction or building addition shall conform to the subject yard requirements of the applicable district. Any re-construction or maintenance of the existing structures may be performed with no additional encroachment into the subject yard requirements.~~

~~§ 185.163 USES UNDER CCNDITIONAL USE PROVISIONS NOT NONCONFORMING USES.~~

~~—Any use for which a conditional use is permitted as provided in this chapter shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.~~

~~§ 185.164 TEMPORARY USES.~~

~~—The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use. Such use shall not be validated by the adoption of this chapter unless it complies with the terms of this chapter.~~

ADMINISTRATION AND ENFORCEMENT

PART 1. GENERAL PROVISIONS

~~§ 185.180 ADMINISTRATION AND ENFORCEMENT.~~

~~—The Growth Management Director, under the supervision of the City Manager, shall administer and enforce this chapter. He may be provided with assistance of such other officers and employees of the city as may be necessary to enforce the provisions of this chapter. If any provisions of this chapter are violated, the person responsible for such violation shall be notified in writing, indicating the nature of the violation and ordering the action necessary to correct it. The Growth Management Director, at his discretion, shall order discontinuance of illegal use of land, buildings, or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.~~

~~§ 185.181 BUILDING PERMITS REQUIRED.~~

~~—(A) No building or other structure shall be erected, moved, added to or structurally altered without a permit therefor issued by the Building Official. No building permit shall be issued except in conformity with the provisions of this chapter, except after written order pursuant to the provisions of § 169.009.~~

~~—(B) The issuance of a permit upon plans and specifications shall not prevent the Building Official from thereafter requiring the correction of errors in such plans and specifications or preventing the building operations being carried on thereunder when in violation of this chapter or any other provision of this code of ordinances or any other city ordinance.~~

~~§ 185.182 APPLICATION FOR BUILDING PERMIT.~~

~~—(A) All applications for building permits for any structure and its accessory buildings shall be accompanied by scale drawings at a scale acceptable to the Building Official in the appropriate number showing the following:~~

~~—(1) The actual dimensions and shape of the lot or lots to be built upon, including the location and actual boundaries of abutting watercourses and water bodies.~~

~~—(2) The exact sizes and locations on the lot of buildings already existing, if any.~~

~~—(3) The locations and dimensions of the proposed buildings or alterations.~~

~~—(4) The location and layout of the proposed sewage disposal system.~~

~~—(5) When applicable, the required parking spaces, loading and unloading spaces, maneuvering spaces and openings for ingress and egress.~~

~~—(6) When applicable, grading and drainage plans showing any and all cuts, fills and provisions for adequately carrying off surface water on premises plus provisions for any surface water which would naturally flow over or through the area. Such plans shall be reviewed and approved by the Land Development Review Engineer.~~

~~—(7) Such other information as lawfully may be required by the Building Official, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this chapter.~~

~~—(B) One (1) copy of the plans shall be returned to the applicant by the Building Official after he shall have marked such copy either as approved or disapproved and attested same by his signature on such copy. The original, similarly marked, shall be retained by the Building Official.~~

~~§ 185.183 CERTIFICATE OF OCCUPANCY REQUIRED.~~

~~—No land or building, or part thereof, hereafter erected or altered in its use or structure shall be used until the Building Official shall have issued a certificate of occupancy stating that such land, building, or part thereof, and the proposed use thereof are found to be in conformity with the provisions of this chapter. Within three (3) days after notification that a building or premises, or part thereof, is ready for occupancy or use, it shall be the duty of the Building Official to make a final inspection thereof and to issue a certificate of occupancy if the land, building or part thereof and the proposed use thereof are found to conform with the provisions of this chapter, or, if such certificate is refused, to state such refusal in writing with the cause.~~

~~§ 185.184 EXPIRATION OF BUILDING PERMITS.~~

~~—(A) Expiration and extension. A permit for work shall be deemed to be abandoned six (6) months from the date the permit was issued and the permit shall become void unless satisfactory progress is made. Satisfactory progress shall be evidenced by a requested inspection. One (1) or more ninety (90) day extensions of a permit may be allowed provided the extension is requested in writing. If granted, such extensions shall be in writing by the Building Official. An inspection must be requested within the ninety (90) day extension period or the permit shall expire.~~

~~—(B) Required inspections. If the work described in any permit, issued by the Building Official has begun, all required inspections shall be requested. If the work described in a permit has commenced, but the stage of the work does not require an inspection, an inspection shall nonetheless be required and requested by the party to whom the permit was issued, to determine satisfactory progress or an additional permit extension shall be required at least six (6) months.~~

~~§ 185.185 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, PERMITS, CERTIFICATES OF OCCUPANCY.~~

~~—Building permits or certificates of occupancy issued on the basis of plans and applications approved by the Building Official authorize only the use, arrangement~~

~~and construction. Use, arrangement or construction at variance with the authorized, shall be deemed a violation of this chapter.~~

~~§ 185.186 MINIMUM FLOOR ELEVATION.~~

~~—All buildings not already restricted by floodplain management requirements (as set forth in Chapter 174) intended for human occupancy shall be constructed with the ground floor level at least twelve (12) inches above the highest point of the surface of the public thoroughfare on which the property abuts. The Chief Building Official may waive such requirements after approval from the City Engineer, where the applicant demonstrates that on-site lot and unfinished floor elevations and drainage provides for protection of the finished floor.~~

PART 2. AMENDMENTS

~~§ 185.200 REGULATIONS SUBJECT TO AMENDMENT.~~

~~—The regulations, restrictions and boundaries set forth in this chapter may, from time to time, be amended, supplemented, changed or repealed, in the manner prescribed by law.~~

~~§ 185.201 PROCEDURE.~~

~~—The procedure for amendment of this chapter shall be as follows:~~

~~—(A) A district boundary may be initiated by:~~

~~—(1) The owner or owners of at least seventy-five percent (75%) of the property described in the application;~~

~~—(2) Tenant or tenants, with owner's sworn to consent;~~

~~—(3) Duly authorized agents evidenced by a written power of attorney;~~

~~—(4) City Council;~~

~~—(5) Planning and Zoning Board;~~

~~—(6) Any department or agency of the city.~~

~~—(B) Any amendment to this chapter other than a district boundary change may be proposed by:~~

~~—(1) City Council;~~

~~—(2) Planning and Zoning Board;~~

~~—(3) Any department or agency of the city;~~

~~—(4) Any individual, corporation or agency.~~

~~—(C) All proposed amendments shall be submitted to the Planning and Zoning Board which shall analyze the factors of analysis applicable to the proposed amendment prior to making a recommendation to City Council;~~

~~—(1) Future Land Use Map Amendment Factors of Analysis:~~

~~—(a) Whether the proposed amendment will have a favorable or unfavorable effect on the city's budget, or the economy of the city;~~

~~—(b) Whether the proposed amendment will adversely affect the level of service of public facilities;~~

~~—(c) Whether the proposed amendment will adversely affect the environment or the natural or historical resources of the city or the region as a result of the proposed amendment;~~

~~—(d) Whether the amendment will have a favorable or adverse effect on the ability of people to find adequate housing reasonably accessible to their places of employment;~~

~~—(e) Whether the proposed amendment will promote or adversely impact the public health, safety, welfare, or aesthetics of the region or the city;~~

~~—(f) Whether the requested amendment is consistent with all elements of the Comprehensive Plan and established Levels of Service.~~

~~—(g) Whether the request maximizes compatibility (consistent with the definition found in Florida Statutes § 163.31649) between uses;~~

~~—(h) Whether the request provides for a transition between areas of different character, density or intensity;~~

~~—(i) Whether the request relocates higher density and intensity uses in areas which already feature adequate vehicular access and access to public facilities; and~~

~~—(j) Whether the request considers land use equity in accordance with Policy FLU-1.12A of the Comprehensive Plan.~~

~~—(2) Zoning Map Amendment Factors of Analysis:~~

~~—(a) The applicant's need and justification for the change and whether it aligns with the community's current or future needs;~~

~~—(b) The effect of the change, if any, on a particular property and surrounding properties;~~

~~—(c) The amount of existing undeveloped land in the general area of the city having the same classification as that requested;~~

~~—(d) Whether the proposed amendment furthers the purpose of the city's Comprehensive Plan, or other strategic plans applicable to the proposed development and the provisions in the Land Development Code;~~

~~—(e) Whether the requested district is substantially different from that of the surrounding area; and~~

~~—(f) Whether the request provides for a transition between areas of different character, density or intensity.~~

~~—(D) When a change of zoning classification of a single parcel is proposed, or a group of not more than five hundred (500) parcels, of any property within the city, a notice shall be mailed to each property owner whose zoning classification is proposed to be changed, using owner's current address of record, as maintained by the Tax Assessor, and be postmarked not later than ten (10) days prior to the scheduled hearing. Prior to the effective date of any zoning classification change, the City Council shall cause an affidavit to be filed with the City Clerk certifying its compliance with the provisions of this section. A failure to give notice shall not affect the validity of zoning except as to the property of the complaining owner.~~

~~—(E) When any proposed change of a zoning district boundary lies within five hundred (500) feet of the boundary of an incorporated or unincorporated area, notice shall be forwarded to the Planning Board or governing body of such incorporated or unincorporated areas in order to give such body an opportunity to appear at the hearing and express its opinion on the effect of the district boundary change.~~

~~—(F) The Planning and Zoning Board shall submit the request for change or amendment to the City Council with written reasons for its recommendation.~~

~~—(G) The City Council shall hold public hearings on the recommendation of the Planning and Zoning Board, giving public notice as required by the state statutes and by posting notice in city hall.~~

~~§ 185.202 (RESERVED).~~

~~§ 185.203 MODIFICATION OF DISTRICT BOUNDARY CHANGES.~~

~~—If a request for a district boundary change is for a district more liberal than the existing district, and the Planning and Zoning Board or the City Council determines that the request should be denied, the Planning and Zoning Board may~~

~~recommend, and/or the City Council may change the district classification for the property to any district classification that is less restrictive than the requested zoning classification consistent with the Future Land Use Map.~~

~~§ 185.204 RECONSIDERATION OF DISTRICT BOUNDARY CHANGES.~~

~~—When a proposed change in district boundaries has been acted upon by the City Council and disapproved or failed to pass, such proposed change, in the same or substantially similar form, shall not be reconsidered by the City Council, for a period of six (6) months. Such restriction shall not apply to the owner if the original request was initiated by the City Council, Planning and Zoning Board, or any department or agency of the city.~~

~~ADMINISTRATION AND ENFORCEMENT: PART 3. SCHEDULE OF FEES AND CHARGES~~

~~§ 185.215 ESTABLISHED.~~

~~—(A) Fees shall be as established by resolution pursuant to § 169.004.~~

~~—(B) In the event an applicant causes any cancellation, continuance, delay, postponement, rescheduling, withdrawal or reapplication of any rezoning, conditional use, variance or appeal of administrative decision, additional fees for costs shall be imposed against the applicant as established by resolution pursuant to § 169.004.~~

~~§ 185.216 PAYMENT; REFUNDS OR REBATES.~~

~~—No permit certificate shall be issued and no inspection, public notice or other action relative to zoning, petitions for changes in zoning, or appeals, shall be instituted until after such fees, costs and charges have been paid. When in accordance with the provisions of this section, a fee is paid and application is filed, there shall be no return or rebate of any funds so received, regardless of the city's determination in the matter involved. All fees, costs and charges shall be, upon collection, deposited in the general fund of the city.~~

~~CHAPTER 186: COMMUNICATION TOWERS AND FACILITIES~~

~~§ 186.01 PURPOSE.~~

~~—The purpose of this chapter is to uniformly regulate the size, number, type and location of communication towers, antennas and support facilities. Advances in information technology and the Federal Telecommunications Act of 1996 generated an increase in the number of requests to site commercial communication support facilities in the city. The city encourages advances in~~

~~communication technology that better serve its residents and does not prohibit communication systems. However, the purpose of the chapter is to protect city character and public safety by controlling tower, antenna, and facilities location, height, construction, and aesthetics ensuring that communication systems are compatible with surrounding land uses. Moreover, the city seeks to discourage visual clutter resulting from the potential, simultaneous deployment and proliferation of multiple communication towers or systems. To that end, this chapter is intended to encourage the co-location of communication antennas on existing public or private utility facilities, and to either camouflage antennas, towers and other communication facilities, or minimize visual impacts of communication systems through careful design, siting, buffering, and landscaping.~~

~~§ 186.02 DEFINITIONS.~~

~~—For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.~~

~~—ALTERNATIVE SUPPORT STRUCTURE. Any man-made structure, including but not limited to, buildings, light poles, clock towers, bell towers/steeple, water towers and the like, which allow for the attachment of communication facilities.~~

~~—CAMOUFLAGED TOWER OR ANTENNA. A communications tower or antenna designed to unobtrusively blend into the existing surroundings and be disguised so as not to have the appearance of a communications tower or antenna. Camouflaged towers and antennas on developed property must be disguised to appear as either a part of the structure housing a principal use, or an accessory structure that is normally associated with the principal use. Camouflaged towers and antennas placed on unimproved property must be disguised to blend in with the existing vegetation.~~

~~—CO-LOCATION. Attachment of two or more communications antennae to a new or existing communications tower, and the attachment of one or more communications antennas on an existing alternative support structure.~~

~~—COMMUNICATIONS ANTENNA. Any exterior device more than one meter in diameter used to send or receive electromagnetic waves for all types of communication.~~

~~—COMMUNICATIONS FACILITIES. A facility or location designed, or intended to be used for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services, and any commercial wireless telecommunication service~~

~~whether or not it is licensed by the FCC. This includes without limit, towers of all types and kinds, where used, and all related facilities and equipment such as antennas, cabling, equipment shelters and other structures associated with the site.~~

~~— COMMUNICATIONS TOWER. Any structure designed and constructed for the primary purpose of supporting one or more communications antennas. Tower shall mean the same as communications tower. Towers may be of the following construction types:~~

~~— (1) GUYED. A vertical structure anchored by guy wires.~~

~~— (2) MONOPOLE. A vertical self-supporting structure, not guyed, made of spin-cast concrete, steel or similar material, presenting a solid appearance.~~

~~— (3) LATTICE. A vertical self-supporting structure, not guyed, with three or more sides consisting of open-frame supports.~~

~~— ENGINEER. Any engineer licensed by the State of Florida.~~

~~— FAA. Federal Aviation Administration.~~

~~— FCC. Federal Communications Commission.~~

~~— HEIGHT. The distance measured from the finished grade of the parcel, including the base pad, to the highest point on the communications tower or other structure, including all communications antennae.~~

~~— MINOR MODIFICATION. For the purposes of co-location, a minor modification shall indicate an increase in the height of an existing communications tower of no more than forty (40) feet above the originally permitted tower height.~~

~~— PRE-EXISTING TOWERS AND PRE-EXISTING ANTENNAS. Any communications tower or communications antenna for which a building permit has been issued prior to April 1, 1998, including permitted communication towers or antenna that have not yet been constructed, so long as such permits are valid and in effect.~~

~~— SETBACKS. When referring to a support structure, such as a tower or building, setback shall mean the required distance from the support structure to the property line of the parcel on which the communication facility is located.~~

~~— TEMPORARY TELECOMMUNICATIONS TOWER. Any telecommunications tower constructed and operating in conjunction with a permitted special event. These facilities are also known as cellulars on wheels (cows) for their mobility.~~

~~Emergency towers used to aid in post-disaster relief efforts also fall in this category.~~

~~§ 186.03 APPLICABILITY.~~

~~The terms and provisions of this chapter shall apply to all communication facilities on lands, lying within the city limits, including publicly owned lands, rights-of-way, and easements except as provided in § 186.04 herein. This chapter shall supersede all conflicting ordinances or codes regarding the locating and permitting of communication facilities.~~

~~§ 186.04 EXCEPTIONS.~~

~~The following exceptions to complying with the requirements of this chapter shall be permitted:~~

~~(A) Any communication tower or antenna that is owned and operated by a federally licensed amateur radio operator.~~

~~(B) Any communication antenna which is not attached to a communication tower or building which is accessory to any commercial, industrial, residential, institutional, multi-family, or public utility structure provided that:~~

~~(1) The communication antenna does not exceed 20 feet above the highest point of the structure. This includes ground mounted satellite dish antennas that are regulated as accessory structures in the Zoning Code.~~

~~(2) Communication antennas that comply with all applicable FCC, FAA, and State of Florida regulations.~~

~~(3) The communication antenna complies with applicable building codes.~~

~~(C) The communication antenna or tower is located in U.S. military facilities, regardless of size.~~

~~(D) Temporary telecommunications towers that comply with applicable FCC regulations.~~

~~§ 186.05 GENERAL REQUIREMENTS.~~

~~(A) Communication towers and communication antennas must comply with all applicable Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) regulations. Proof of FAA approval is required for all communication tower applications.~~

~~—(B) Any structurally adequate structure including interstate signs and billboards, may be used to support one or more antennas. Appropriate structures are buildings, water towers, utility poles, monopoles, and towers.~~

~~—(C) An applicant seeking to construct a tower must demonstrate that there are no reasonable opportunities to locate the antenna(s) on existing towers or other support structures within a two (2) mile radius of the proposed tower. An engineer's report submitted to the city must show one or more of the following:~~

~~—(1) No existing towers or structures have sufficient height to meet the applicant's engineering requirements.~~

~~—(2) No existing towers or structures have sufficient structural strength to support the proposed antenna and related equipment.~~

~~—(3) The applicant's proposed antenna would cause electromagnetic interference with or would be interfered with by other antennas if placed on any existing tower or structure.~~

~~—(4) Other information that demonstrates that the wireless carrier's designated service cannot be provided through placement of the antennas on existing structures.~~

~~—(5) There are other bonafide limiting engineering factors submitted to the city that preclude co-location.~~

~~—(D) No signs or advertising shall be permitted on towers, antennas, or ground mounted facilities.~~

~~—(E) All tower plans must be designed and sealed by a professional engineer registered in the State of Florida.~~

~~—(F) Communication towers shall either maintain a galvanized steel or concrete finish appearance or, subject to any applicable standards of the FAA, be painted so as to reduce the visual obtrusiveness of the structure.~~

~~—(G) Temporary telecommunications towers associated with a special event shall be permitted for a limited period of time by the City Manager as part of the event, not to exceed the time of the special event. Temporary telecommunications towers necessary to aid in post disaster relief efforts are exempt from this permitting process.~~

~~—(H) In addition to the general requirements for the filing of a building permit application, the applicant shall include a statement in writing that the proposed communications facility shall be maintained in a safe manner, and in compliance~~

~~with all conditions of the building permit, including all conditions of any conditional use approvals.~~

~~—(I) Construction of the communications facility, and all other work performed at the site, shall only be conducted by persons with a Florida's contractor's license.~~

~~§ 186.06 WHERE PERMITTED.~~

~~—(A) Freestanding communication towers and all other communication facilities may be permitted by right in the following zoning districts:~~

~~—(1) HI, Heavy Industrial;~~

~~—(2) LI, Light Industrial and Warehousing; or~~

~~—(3) IU, Institutional Use; or~~

~~—(4) GU, General Use Holding.~~

~~—(B) Freestanding communication towers and all other communication facilities may only be located in the following zoning districts by conditional use approval:~~

~~—(1) HC, Highway Commercial;~~

~~—(2) CC, Community Commercial; and/or~~

~~—(3) GC, General Commercial.~~

~~—(C) Freestanding communication towers, antennas, and other equipment may also be located in residential and non-residential planned unit developments (PUD's) as a specific element of an overall PUD master plan or amendment. However, when located within a residential PUD, the city can establish the minimum separation distances between communication towers and nearby homes or other types of dwelling units.~~

~~—(D) Antennas only may be located in residential districts when attached to electrical transmission towers or poles.~~

~~—(E) Communication tower facilities are prohibited from locating in any zoning district not provided for in subsections (A) through (D) above.~~

~~§ 186.07 PERFORMANCE STANDARDS.~~

~~—(A) Lighting - Communication facilities shall not be artificially lit, except for:~~

~~—(1) Security and safety lighting of equipment buildings if such lighting is compliant with the model lighting ordinance prepared by the International Dark Sky Association and the Illuminating Engineering Society of North America; and~~

~~—(2) Required lighting by the FAA or other applicable authority, such lighting shall be installed in a manner to minimize impacts on adjacent residences.~~

~~—(B) Noise – No equipment shall be operated at a communication facility so as to produce noise in excess of the applicable City Noise Ordinance, Chapter 92, except when emergency situations require the use of backup generators.~~

~~—(C) Structural integrity – At the time of permitting all towers must be designed and certified to conform with the Florida Building Code, and any of its updates or amendments.~~

~~—(D) Setbacks:~~

~~—(1) All towers, regardless of their type or zoning district, shall be setback from all property lines of the property for which the tower resides, a minimum distance equal to half the height of the tower.~~

~~—(2) All towers must also be camouflaged in the CC, HC, and IU zoning districts.~~

~~—(3) Anchoring. All guy wires or other communication tower anchoring devices shall maintain at least a ten foot setback to any property lines. Guyed and/or lattice towers are permitted only in the LI and HI zoning districts. All other communication towers, where permitted, shall be self-supporting monopole towers.~~

~~—(E) Fencing and landscaping.~~

~~—(1) An eight (8) foot tall fence or wall, as measured from the finished grade of the site, shall be required around the perimeter of all communication tower sites. Access to the tower(s) shall be through a locked gate.~~

~~—(2) A ten (10) foot wide landscape buffer shall either be installed or preserved in the natural state around the fence or wall. This landscape buffer shall screen the base of the communications tower and ancillary structures. All landscaping shall be drought tolerant or irrigated, and shall be maintained in good health. Planted shrubs shall be a minimum of two (2) feet tall and spaced a minimum of three (3) feet apart. Planted trees shall contain a minimum 2-inch DBH and have an overall height of ten (10) feet at the time of planting.~~

~~—(F) High voltage and "No Trespassing" warning signs.~~

~~—(1) If high voltage is necessary for the operation of the communications tower or any accessory structures, "High Voltage Danger" warning signs shall be permanently attached to the fence or wall and shall be spaced not more than 40 feet apart.~~

~~—(2) At least one "No Trespassing" sign shall be permanently attached to the fence or wall.~~

~~—(3) At least one (1) sign shall be permanently attached to the fence or wall that provides the name of the owner of the tower and the name of each carrier that has antennae on the tower, as well as emergency phone numbers for each. The sign shall be visible from the access point of the site. Whenever the information on this sign changes, such as the tower being sold, the antennae or other apparatus are sold, a new service provider co-locates on the tower, the owner or lessee changes contact~~

~~information, etc, the sign must be updated accordingly within seven (7) business days.~~

~~—(G) Equipment storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the communication tower, unless repairs to the tower are being made. Storage sheds or buildings shall be allowed on communication sites if fully enclosed with a roof.~~

~~—(H) Hurricane evacuation routes. Communication towers shall not be constructed at a height and location that, in the event the tower is toppled, the tower fall zone would totally or partially block or impede any road designated as a hurricane evacuation route.~~

~~—(I) Communication facilities not on towers. Excluding residential districts, communication facilities which are not attached to a tower may be permitted on any alternative support structure, regardless of the zoning restrictions applicable to the zoning district where the structure is located. The owner of such structure shall provide written certification of the following when applying for a building permit:~~

~~—(1) That the height of the communications facilities does not exceed the height of the alternative support structure by more than 20 feet.~~

~~—(2) That any communications facilities and their appurtenances, located above the primary roof of an alternative support structure, are set back one foot from the edge of the primary roof for each two feet in height above the primary roof of the communications facilities. However, this setback requirement shall not apply to communications facilities and their appurtenances that are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the city or located on non-inhabitable structures. Setback requirements shall not apply to camouflaged antennas. Camouflaged antennas~~

~~shall not protrude more than 18 inches from the side of the alternative support structure.~~

~~— (3) The alternative support structure and communications facilities shall comply with the Florida Building Code and the city's land development regulations.~~

~~— (4) The communications antenna and supporting electrical and mechanical equipment must be of a color that is identical to, or closely compatible with the color of the supporting structure, so as to make the communications facilities visually unobtrusive.~~

~~§ 186.08 APPLICATION.~~

~~— (A) Any proposed towers requiring conditional use approval must meet the special requirements found in § 185.088 of the Zoning Code.~~

~~— (B) In addition to conditional use approval, all permits for tower construction must submit the following items:~~

~~— (1) Completed site plan and building application forms, and a plans review checklist.~~

~~— (2) Building, site, and landscaping plans drawn to scale.~~

~~— (3) The name, address, and telephone number of the owner and lessee of the parcel of land upon which the tower is situated. If the applicant is not the owner of the property, then the written consent of the owner must be provided.~~

~~— (4) Written affidavit attesting that the applicant made diligent efforts for permission to co-locate the communication facilities on existing towers or other structures and that the applicant will allow co-location by and for other entities involved in the same business or industry as the applicant. This shall include an engineer's report certifying that there are limiting engineering factors that preclude co-location as per § 186.05 of this chapter, if applicable.~~

~~— (5) Each application to allow construction of a tower shall include a written statement from an engineer(s) that the construction and placement of the tower will not interfere with public safety communications and the usual and customary transmission or reception of radio, television, or other communications service enjoyed by adjacent properties. Submittal of FCC approval is considered sufficient.~~

~~— (6) Copy of the FCC license applicable for the intended use of the communications tower and/or facility.~~

~~§ 186.09 MODIFICATION OF EXISTING TOWERS.~~

~~—(A) Existing towers constructed prior to the effective date of this chapter which do not meet the requirements of this chapter may continue as a non-conforming use. These towers may be replaced or modified for co-location, or to improve functionality as long as the height of the tower does not exceed 40 feet above the original tower height.~~

~~—(B) Minor modifications to communication towers shall be approved by staff administrative review. Minor modifications include the addition of antennas, provided either that the antennas add no more than 40 feet in height to the tower, or that the tower is rebuilt to the same height or no more than 40 feet above the original tower height. Prior to receiving a building permit for the modified tower, the applicant must meet the requirements of § 186.08(B). In lieu of submitting "full-scale" site plan drawings, the applicant shall submit a current survey of the communications tower facility showing not only the tower compound, but all equipment contained within. The survey must also show the proposed equipment, and be accompanied by a written statement, on company letter head, describing the amount that the tower height is being increased, if applicable. If the tower is not being increased in height, the letter shall describe the location of the new antennae.~~

~~—(C) Major modifications to communication towers shall be approved as stated in the zoning districts and may include conditional use review. Major modifications are those that exceed the definition of minor modifications.~~

~~—(D) Co-locations, on alternative support structures that meet the requirements of § 186.07(1)(1)-(4) or on existing towers, including nonconforming structures or towers, that meet the requirements provided in subparagraphs (1) – (3) below, are subject only to building permit review. Such co-locations are not subject to any design or placement requirements in effect at the time of the co-location that are more restrictive than those in effect at the time of the initial tower or antennae placement approval, or to public hearing review.~~

~~—(1) The co-location does not increase the height of the tower or structure to which the antennae are to be attached, measured to the highest point of any part of the tower or structure or any existing antennae attached to the tower;~~

~~—(2) The co-location does not increase the ground space area, commonly known as the compound, approved in the site plan for equipment enclosures and ancillary facilities; and~~

~~—(3) The co-location consists of antennae, equipment enclosures, and ancillary facilities that are of a design and configuration consistent with all applicable regulations, restrictions, or conditions, if any, applied to the initial antennae placed on the tower or structure and its accompanying equipment enclosures and ancillary facilities and, if applicable, to the tower or structure supporting the antennae. Such regulations may include the design and aesthetic requirements, but not procedural requirements, in effect at the time the initial tower or antennae placement was approved.~~

~~§ 186.10 ABANDONMENT.~~

~~—(A) Discontinued use of a communication tower shall be deemed abandoned. Determination of the date of abandonment shall be made by the Growth Management Director (hereinafter referred to as Director), or his/her designee, who shall have the right to request documentation and/or affidavits regarding the active use of the tower.~~

~~—(B) The tower owner/operator shall have 90 days from the date of the Directors notice to either, reactivate the use of the tower with the same operator or another, or dismantle and remove the tower.~~

~~—(C) If there are two or more users on a communications tower, then these provisions shall not become effective until all users cease operations.~~

~~—(D) Under the following circumstances, the Director may determine that the health, safety and welfare of the city warrant and require removal of communications facilities:~~

~~—(1) A communications facility (hereinafter referred to as facility) has fallen into such a state of disrepair as to create a health or safety hazard;~~

~~—(2) The tower has been modified without obtaining the required permits to do so or the approval granted for construction of the tower has been revoked.~~

~~—(E) If the Director determines that a tower and/or facility shall be removed the owner shall dismantle and remove such equipment from the site and restore the aboveground site to as close to its original condition as possible, within 90 days of receipt of written notice from the Director. However, if the landowner for which the facility resides wishes to retain any access roadway to the site, the owner may do so with the approval of the Director.~~

~~—(F) If the facility ordered to be removed under this section is not removed or substantial progress has not been made to remove the facility within the 90-day~~

~~period, then the city may remove the facility at the sole expense of the facility owner, dispose of the equipment as it sees fit, and in order to cover the city's cost.~~

~~—(G) Notwithstanding anything in this section to the contrary, the Director may approve a temporary use agreement to operate the facility for no more than 180 days, during which time a suitable plan for removal, conversion, or re-location of the affected facility shall be developed by the facility owner. This agreement, and the terms of resolution of the facility, must be approved by the Director and signed by both the Director and the facility owner.~~

~~§ 186.11 PERFORMANCE SECURITY.~~

~~—Prior to issuance of any building permit, the applicant and/or the owner of the site for which the communications facility will be located shall, at its cost and expense, be required to execute and file with the Growth Management Department a bond, or other form of security acceptable to the City Attorney, in an amount of at least \$50,000 for a new facility. The full amount of the bond or security shall remain in full force and effect while the facility is in existence and until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to issuance of the original building permit.~~

CHAPTER 187: ADMINISTRATIVE MORATORIA

~~§ 187.01 COMPREHENSIVE PLAN AMENDMENT MORATORIA.~~

~~—(A) Whenever the Planning and Zoning Board votes to recommend in favor of any proposed amendment to the city's Comprehensive Plan, the City Manager shall issue an administrative order setting forth the proposed amendment and establishing a moratorium during which any city employee, board or department will be prohibited from granting an approval or permit that would be prohibited in the event that the proposed amendment recommended for approval by the Planning and Zoning Board is subsequently enacted by the City Council.~~

~~—(B) Any administrative order issued pursuant to division (A) above shall be complied with by all city employees, boards and departments and shall be effective until the proposed amendment is enacted or rejected by the City Council. However, in the event that the City Council fails to:~~

~~—(1) Adopt a small scale amendment; or~~

~~—(2) Transmit a proposed amendment pursuant to state law; or~~

~~—(3) Reject an amendment within ninety (90) days after a favorable recommendation by the Planning and Zoning Board; or~~

~~—(4) Enact or reject an amendment within one hundred twenty (120) days after receiving comments on the proposed amendment pursuant to state law; any administrative order shall be deemed expired and shall be without further effect.~~

~~—(C) Notwithstanding divisions (A) and (B) above, excepted from any administrative order is any project that has a validly issued building permit, variance approval, or has a completed application meeting all submission requirements submitted for City approval, variance approval, or building permit approval prior to a vote by the Planning and Zoning Board in favor of a proposed amendment.~~

~~§ 187.02 LAND DEVELOPMENT CODE.~~

~~—(A) Whenever the Planning and Zoning Board votes to recommend in favor of any proposed amendment to the city's Land Development Code, the City Manager shall issue an administrative order setting forth the proposed amendment and establishing a moratorium during which any city employee, board, or department will be prohibited from granting a development order or development permit for any development, as defined in Chapter 163.3164, Florida Statutes, that would be prohibited, with or without variances, in the event that the proposed amendment recommended for approval by the Planning and Zoning Board is subsequently enacted by the City Council.~~

~~—(B) Any administrative order issued pursuant to division (A) above shall be complied with by all city employees, boards and departments and shall be effective until the proposed amendment is enacted or rejected by the City Council. However, in the event that the City Council fails to enact or reject an amendment within ninety (90) days after a favorable recommendation by the Planning and Zoning Board any administrative order shall be deemed expired and shall be without further effect.~~

~~—(C) Notwithstanding divisions (A) and (B) above, excepted from any administrative order is any project that has a validly issued building permit, variance approval, or has a completed application meeting all submission requirements submitted for city approval, variance approval, or building permit approval prior to a vote by the Planning and Zoning Board in favor of a proposed amendment.”~~

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed and all ordinances or parts of ordinances not in conflict herewith are hereby continued in full force and effect.

SECTION 3. It is the intention of the City Council of the City of Palm Bay that the City of Palm Bay Code of Ordinances be revised to delete the language as specified above.

SECTION 4. If any portion, clause, phrase, sentence or classification of this ordinance is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the ordinance; it is hereby declared to be the express opinion of the City Council of the City of Palm Bay that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this ordinance did not induce its passage, and that without the inclusion of any such portion or portions of this ordinance, the City Council would have enacted the valid constitutional portions thereof.

SECTION 5. The provisions within this ordinance shall take effect immediately upon the enactment date.

Read in title only at Meeting 2024-XX, held on _____, 2024; and read in title only and duly enacted at Meeting 2024-XX, held on _____, 2024.

Rob Medina, MAYOR

ATTEST:

Terese M. Jones, CITY CLERK

Reviewed by CAO: _____

Strikethrough words shall be deleted; highlighted words that will included will be placed in between two arrow symbols (>> <<). Deletions and additions constitute the proposed amendment. Words remaining are now in effect and remain unchanged.